Legislative History for Connecticut Act

HB 7479 (PA 368) Law 1989
Hse: 2672, 2888, 10886-10936, 13870-13874 (58)
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Joint Standing Committee hearings, Environment. 1989:pt.7., p.2388-2409, 2430-2436, 2440-2442
Joint Standing Committee hearings, Environment. 1989:pt. 8 ., p.2457-2526
Proceedings / Connecticut General Assembly, House. 1989: v.32:pt.8, p. 2672
Proceedings / Connecticut General Assembly, House. 1989: v.32:pt.9, p. 2888
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Proceedings / Connecticut General Assembly, House. 1989: v.32:pt.39, p. 13870-13874
Proceedings / Connecticut General Assembly, Senate. 1989 v.32:pt.3, p.1067.
Proceedings / Connecticut General Assembly, Senate. 1989 v.32:pt.4, p.1165

Proceedings / Connecticut General Assembly, Senate. 1989 v.32:pt.12, p.4185-4192

ENVIRONMENT. Substitute for H.B. No. 7205 (RAISED) AN ACT CONCERNING THE CONNECTICUT AGRICULTURAL EXPERIMENT STATION.
The bill was then referred to the Committee on Government Administration and Elections.

PUBLIC HEALTH. Substitute for H.B. No. 7290 (RAISED) AN ACT CONCERNING HOSPITAL BUDGET REVIEW.
The bill was then referred to the Committee on Government Administration and Elections.

ENVIRONMENT. Substitute for H.B. No. 7294 (RAISED) AN ACT CONCERNING THE PURCHASE BY THE STATE OF CERTAIN FISH.
The bill was then referred to the Committee on Government Administration and Elections.

ENVIRONMENT. Substitute for H.B. No. 7332 (RAISED) AN ACT CONCERNING AUTHORIZATION OF BONDS FOR ENVIRONMENTAL PROTECTION PROGRAMS.
The bill was then referred to the Committee on Finance, Revenue and Bonding.

PUBLIC HEALTH. H.B. No. 7372 (RAISED) AN ACT CONCERNING THE BIRTH DEFECTS SURVEILLANCE PROGRAM.
The bill was then referred to the Committee on Appropriations.

ENVIRONMENT. Substitute for H.B. No. 7445 (RAISED) AN ACT CONCERNING GLOBAL WARMING.
The bill was then referred to the Committee on Government Administration and Elections.

ENVIRONMENT. Substitute for H.B. No. 7479 (RAISED) AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON INDIAN AFFAIRS.
The bill was then referred to the Committee on Government Administration and Elections.

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BUSINESS FROM THE SENATE
FAVORABLE REPORTS OF JOINT STANDING COMMITTEES
CHANGES OF REFERENCE
SENATE BILLS

The following favorable reports on the Senate Bills recommending a change of reference were received from

ENVIRONMENT. Substitute for H.B. No. 7409 (RAISED) AN ACT CONCERNING ENVIRONMENTAL FEES.
The bill was then referred to the Committee on Finance, Revenue and Bonding.

ENVIRONMENT. Substitute for H.B. No. 7420 (RAISED) AN ACT CONCERNING SOLID WASTE PENALTIES.
The bill was then referred to the Committee on Judiciary.

ENVIRONMENT. Substitute for H.B. No. 7444 (RAISED) AN ACT CONCERNING SOLID WASTE ORDERS.
The bill was then referred to the Committee on Judiciary.

GOVERNMENT ADMINISTRATION AND ELECTIONS. Substitute for H.B. No. 7479 (RAISED) AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON INDIAN AFFAIRS.
The bill was then referred to the Committee on Judiciary.

JUDICIARY. H.B. No. 7573 (RAISED) AN ACT CONCERNING INDEMNIFICATION OF FIRE SERVICE INSTRUCTORS AND EMERGENCY MEDICAL TECHNICIAN INSTRUCTORS.
The bill was then referred to the Committee on Appropriations.

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BUSINESS FROM THE SENATE
FAVORABLE REPORTS OF JOINT STANDING COMMITTEES
CHANGES OF REFERENCE
SENATE BILLS

The following favorable reports on the Senate Bills recommending a change of reference were received from the committees indicated, the bills read, the reports of the committees accepted and the bills referred as recommended in concurrence:

PLANNING AND DEVELOPMENT. S.B. No. 286 (COMM) AN ACT PROVIDING FUNDS FOR A STUDY OF THE FEASIBILITY OF A CONVENTION, SPORTS AND ENTERTAINMENT COMPLEX IN BRIDGEPORT.
The bill was then referred to the Committee on Appropriations.

have the same kind of conforming language.

If you're involved in a Motor Vehicle incident, even if you're the only person, you hit a tree as you're driving down the road, you're still obligated to report that if it's over the dollar amount and I think that is the way this ought to be drafted.

So, Madam Speaker, at this time I would move this item be passed temporarily with a view towards getting one more amendment.

DEPUTY SPEAKER POLINSKY:

The question is on passing temporarily? Is there objection? Without objection, so ordered. Will the Clerk please return to the Call of the Calendar.

CLERK:

Page 14, Calendar 504, Substitute for HB7479. AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON INDIAN AFFAIRS.

Favorable Report of the Committee on APPROPRIATIONS.

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER POLINSKY:

The motion is on acceptance and passage. Will you remark?

REP. THOMPSON: (13th)

Thank you, Madam Speaker. The bill is the culmination of one year's work of the Indian Affairs Task Force. The task force was comprised of representatives of the five indigenous Connecticut tribes, the Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hills Paugussett.

The Chairperson of the Indian Affairs Council was also a member and there were several people appointed by the Governor, also of Indian descent, a Cherokee, an Abinocki and a second Schaghticoke. We also had a representative from the University of Connecticut, an archeologist and representatives of OPM, DEP and three members of the General Assembly, Representative Bill Dyson, Representative Andy Norton and myself. Another Representative, Juan Figeroa joined us briefly at the beginning of the task, but left state employment to run for office.

In addition we received invaluable assistance from the Indian Affairs Coordinator and the State Archeologist, a representative of the Connecticut

Historical Commission, a representative of the American Indian Archeological Institute and Julia Bradley, an Attorney engaged in Indian law projects.

The bill is divided into three sections. The first section is the heritage and archeological section. The section deals with the relationship between the five indigenous tribes and the state government and the final section, because we were unable to finish all of our business, would request an extension of the task force.

Madam Speaker, after the bill was heard by four different committees, we received a number of inquiries of concern from hobbyists, metal detector enthusiasts, archeologists, the Commissioner of DEP, the Commissioner of DOT, and Native Americans, all of whom were generally supportive of the bill. However, as the bill affected their personal interest, they had some concerns which they shared with the task force and with members on both sides of the aisle in this legislation.

As a result of a series of meetings with as many of these interest groups as possible --.

DEPUTY SPEAKER POLINSKY:

Excuse me, Representative Thompson --. The bill may not be important to all of you, but it's important to some and it's certainly important to the citizens of

the state. I think we owe it a little attention.

REP. THOMPSON: (13th)

Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

One more moment, Representative Thompson. I would urge you who are having conversations to take them out of the Chamber. Please proceed, Representative Thompson.

REP. THOMPSON: (13th)

Thank you, Madam Speaker. I won't go back to the beginning. We met with as many interests in our bill as possible and as a result of their input and the work of David Leff and Kathy Bernstein of our staff, we were able to revise the bill to meet these concerns in a very positive manner without damage to the intent and will of the task force.

Madam Speaker, may I call Amendment LCO6090 and be allowed to summarize.

DEPUTY SPEAKER POLINSKY:

Will the Clerk please call LCO6090, which shall be designated House Amendment Schedule "A".

CLERK:

LCO6090, House "A", offered by Representative Thompson.

DEPUTY SPEAKER POLINSKY:

The gentleman asks leave of the Chamber to summarize. Is there objection? Hearing no objection, please proceed, Representative Thompson.

REP. THOMPSON: (13th)

Thank you, Madam Speaker. For purposes of summary, may I yield at this point to Representative Adele Kusnitz who will briefly summarize the first section of the bill, that section concerning the heritage and archeological parts of the bill.

DEPUTY SPEAKER POLINSKY:

Representative Kusnitz, do you accept the yield?

REP. KUSNITZ: (112th)

Thank you, Madam Speaker, I do. Madam Speaker, the first 12 sections or so sections of the bill deal with the Archeological and Heritage Advisory Council and the unmarked burials in Connecticut.

Section 2 of the bill establishes the Heritage Advisory Council. It has various appointments made -- there's a member of each tribe who is appointed by the tribe. There is a member of the Indian Affairs Council appointed by the chairperson of the council, a representative of the department of the Commissioner of Environmental appointed by the commissioner, one representing the Archeological Society of Connecticut appointed by the President Pro Tem of the Senate and

three who are knowledgeable in Native American history traditions and archeologists appointed one each by the Speaker of the House of Representatives and by the Minority Leader of the House of Representatives and by the Minority Leader of the Senate.

The following Section 3 is some cleanup language on already existing duties of the Historical Commission already in existence, specifically lines 81 to 83. Lines 86 adds in new language that we have been adding to boards and commissions concerning vacancies for not attending meetings and filling of vacancies.

The next section that is new starts on line 203. It gives the Connecticut Historical Commission, with the concurrence of the State Archeologists may examine sites and lands to determine if such sites or lands of estate are of archeological importance and meet all the requirements for listing in the National Register or the State Register of Historical Places as defined in Section 10-321a of the General Statutes and commencing on line 212 are the conditions for listing such sites including a protection for the private property owner if such site should existing on private property and on line 218, if there is evidence of Native American activity, the Native American Heritage Council would be notified of this site.

It also provides for the commission to cause a designation to be filed on the land records in the town where such preserve is located.

Section 8 commences with the permit that you would need to carry out an archeological investigation on a Connecticut site owned by the State of Connecticut and it says that the permit will be issued by the Connecticut Historical Commission with concurrence of the State Archeologists and on Section -- I'm sorry, just bear with me one moment, and it lists some of the information that should be included on a permit, starting in line 246, the evidence satisfactory to the commission of the qualifications to perform the excavation, including evidence of experience, training and knowledge an excavation plan for the site that chose the methods and the provisions of the excavation and a written statement that upon completion of the excavation the applicant shall submit a report which shall include a description of the archeological artifacts discovered and relevant maps, documents, drawings and photographs submitted to the commission and failure to comply with such permit would be grounds to deny a subsequent permit.

Next to the language appears -- starting with Section 10 and governs if you would find an unmarked

burial. We have already existing in our statutes a provision for the Chief Medical Examiner to be notified when there is -- when you come across an unmarked burial under 19a-406. After those sections have been satisfied, then the rest of the archeological considerations would come into play after first determining that the burial is not connected with any kind of wrongdoing, murder or criminal activity.

Further sections to the -- further paragraphs to Section 10 and 11 concern the reburial of sites and Section 12 provides for penalties for non-compliance and/or otherwise criminal activity associated with archeological artifacts in this state.

This bill provides us a way of protecting Indian, colonial and later archeological sites on public lands by designating certain areas of state parks and forests and archeologically sensitive. In these areas and only in these areas would people be prohibited from taking artifacts out unless they have a permit. This does not include places that are already disturbed, like beaches, picnic groves, hiking paths where people may casually find an arrowhead by sifting through the sand or may actually stumble across a small artifact on the surface of the ground.

It does prohibit subsurface collection. Nobody

would go into a state forest or a park and cut down a tree or remove a plant, but yet there are people in this state that think it's their inalienable right to destroy significant archeological sites that belong to us all.

I would like now to yield to Representative Norton to explain the sovereignty portions of the bill.

REP. NORTON: (48th)

Thank you, Representative Kusnitz. Through you, Madam Speaker, I accept the yield.

DEPUTY SPEAKER POLINSKY:

Good. That's nice of you. Please proceed, sir.

REP. NORTON: (48th)

I just wanted to preface my remarks by thanking Representative Kusnitz who, although not a member of the task force, proved invaluable and made more input than many members did and, in particular, provided that this bill not only prevented any hostile acts and protected archeological artifacts in association with Native Americans, but did it for all of our ancestors and broadened it in that scope and did a very good thing.

Starting in Section 16, which is on Page 14 of the amendment, in line 454, we simply, in Paragraph B, named the tribes, the five tribes of the State of

Connecticut and I'll just repeat them for the people who might not be aware of their existence fully. They are the Schaghticoke Tribe of Kent, the Paucatuck Eastern Pequot Tribe of North Stonington, the Mashantucket Pequot Tribe of Ledyard, the Mohegan Tribe of Montville and the Golden Hill Paugusett Tribe of both Trumbull and Colchester and we say that they are self-governing entities with sovereignty of their own and this is, in essence, recognition of a status that they had before we ever came here and should continue to have and we recognize that those
15 tribes have the right to determine their membership and who can live on the land in lines 470 and 471 and determine their form of government and regulate trade on the reservation, make contracts and determine their leadership.

Next, on Section 17, in one of the really new things we're doing is we describe a trust agreement that each willing tribe, that is to say, a tribe that does not wish to enter into a trust agreement doesn't have to. Each willing tribe can enter into negotiations to define the particular relationship it has with the state. Some tribes have problems decided what exactly should be the police authority in a particular reservation. Some tribes may have a

particular fishing or hunting tradition that they want to preserve in their relationship with the state.

Whatever rights or privileges a tribe wants to secure in written form it can do through this process and by allowing each tribe to pursue a trust agreement, we are allowing each tribe to pursue its own tradition, its own history, its own identity with the state and not fit it into some mold that we try to force on all Indian tribes.

Turning to the next page, Section 18, we then ask each tribal leader at the time of the effective date to submit with the Governor a written description of the method for selecting leadership. We allow the tribe, I shouldn't say we allow the tribe, the tribe has every right to pick its own method of leadership. The state only asks that we have a copy of that format so that in cases of dispute it can be referred to and then we go on to say what we will do in the case of dispute, and to put it rather simply, we have a case where on party to the dispute appoints a member, the other party appoints a member and then those parties agree to a third member or whatever odd-numbered member you need in order to form a panel that can adjudicate the decisions.

If they can't agree on a third party for the

council, then the Governor will step in and appoint one, someone who is knowledgeable in the area, and that will become the format for settling any dispute over leadership. In Section 19, we ask that the tribe file a procedure and rules for tribal membership and then the same thing happens. If there is a dispute, any time in the future, ten years from now or 100 years from now, over membership, the parties to the dispute would appoint members to a council, they would agree upon a third party, sufficient to make it an odd-numbered council who would then settle that dispute and if the dispute is not settled satisfactorily, there is the ability to appeal to Superior Court to determine if the procedures have been followed faithfully.

We continue the existence of the Indian Affairs Council in Section 20, and if you'll notice, some of the only changes on Page 16 are that we clarify that the Pawkatuck Pequot Tribe are the Pawkatuck Eastern Peoquot. We delete the section which says that the Indian Affairs Council shall decide who is eligible to reside on reservation lands because we will accord that decision making power to the tribe.

In Section 21, on lines 570, we set up the -- well, let me rephrase that, we say that the lands cannot be sold by the tribe and in Section B of Section 21, we

say that the Indian tribe in the owner of that reservation except for the power to sell the land, and quite simply and understandably, that's so that while the tribe should be able to have absolute control over the land, it shouldn't be able to sell the land for development tomorrow and then disenfranchise all of the descendents and future descendents of the tribe from any homeland, so we do reserve that right for the state.

Section 23 gives to each tribe the right to determine who will live on the reservation. As we have given the right to decide leadership and the right to decide who can live on the reservation except that we provide that anyone living there on the effective date of this act may remain, so that no one is, again, disenfranchised from what they have now.

In line 619, 620 and 621, we do say that tribes may enter into lease agreements for up to 25 years, so that while a tribe should be able to exercise ownership rights over the land it cannot, again, alienate that property from future generations of the tribe. The ensuing sections simply clarify statutes that are already in existence and working. I think that this section of the bill which deals with how we define what it means to be an Indian in the state and how we define

those procedures for settling disputes is a good way.

The Indian Affairs Task Force will continue in existence up into the future. That's why the effective date of the trust agreement is in 1990, so that the task force can continue to hammer out some of the details that are left to be hammered out and the trust agreement negotiations can respond to those actions by the task force so we do not begin action immediately.

I think that what we do here today, upon passage of this bill, is recognize that people who lived here before we got here and their descendents have the inalienable right to the life they had before as best they can keep it, that we, simply because we are the powerful force now, aren't going to squash out anyone else and we, in so doing, I think, recognize the dignity of our ourselves by recognizing the dignities of others and I would move passage, urge passage. Thank you, Madam Speaker, and I yield to Representative Thompson.

DEPUTY SPEAKER POLINSKY:

Representative Thompson, do you accept the "Round Robbin?"

REP. THOMPSON: (13th)

Thank you, Madam Speaker. Yes, I do.

DEPUTY SPEAKER POLINSKY:

Please proceed, Representative Thompson.

REP. THOMPSON: (13th)

Well, to conclude our presentation, in the final sections of the bill we request that the task force continue or be extended until next year to allow the task force to take up some of those issues originally given to us that we are not able to response completely.

For example, the resolution of state government roles and duties to Native Americans, this was, in part, in deference to the Department of Environmental Protection that wanted additional time to look into those areas that we would be negotiating with or the tribes would be negotiating with the state.

Secondly, we're very concerned about the Indian Affairs Council, its funding and so on. It's been fairly ineffective in many different ways, not the fault of any representative of the council, but because it has limited means and a limited agenda.

We also had a request to look into the possibility of making those spiritual leaders of our tribes recognized as we would recognize clergy of other faiths in our state, so there are several other different matters along those lines which really need to be explored further. We could not get to them, so we're

asking that the task force life be extended.

Finally, I know everybody's concerned about metal detectors and hobbyists and so on who took the pain of taking out an ad in a local newspaper to alert their hobbyists. We had a series of meetings with these people and that section of the bill has been amended. We believe they can do their metal detecting on our beaches and in our state lands, except in those lands preserved under the auspices of this act.

So with that, I would move adoption of the amendment, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

The motion, finally, is on adoption of House Amendment "A". Will you remark? Will you remark? Representative Munns of the 9th.

REP. MUNNS: (9th)

Thank you, Madam Speaker. Madam Speaker, I'd like to ask a question to one of the opponents of the amendment.

DEPUTY SPEAKER POLINSKY:

I think to simplify things, since there were three proponents, maybe if all of you who wish to ask questions would refer to Representative Thompson and then he might yield, unless you know specifically who you wish to ask a question.

REP. MUNNS: (9th)

Actually, I probably would want to ask Representative Thompson because he had just touched on the question I had and, forgive me, Representative Thompson, if I wasn't fast enough in following along with your eloquent explanations of this amendment. As far as the penalty is concerned, for the gentleman or the woman who you just mentioned with a metal detector who would wander onto this property and, you know, would dig up something that he or she was not supposed to dig up, could you please point out what the penalty would be to that person, through you, Madam Speaker?

REP. THOMPSON: (13th)

Through you, Madam Speaker, if it was a criminal violation, they would be subject to up to $5,000 in fines or imprisonment, and/or imprisonment of up to five years. We were concerned about this section of it when it was originally, the bill was originally publicized because some people thought by casually walking through a state forest or something, and as Representative Kusnitz alluded already, picking up an Indian head or an old bottle or an old coin, they may inadvertently be violating the law.

Well, we'd like to correct the -- and for legislative intent, that is not the intent of the bill

at all. The area has to -- there are 14 protected areas under the Department of Environmental Protection now and there would be addition areas after the archeologist and other, identify sites that should be protected either because they're sacred sites or of archeological significance. If those sites are protected, the only way a person would be able to get in there and do anything would be with a permit and there would be regulations regulating those permits.

However, if a person is simply going through a forest or inadvertently it even goes on a site, we do not believe that would be a violation. What we're looking for is the person who is engaged in that kind of piracy, the grave robbers and so on, who would go onto sites for profit and they would be subject to the full penalty of the law, but to the casual hobbyist, no, we do not believe that that would be a problem.

DEPUTY SPEAKER POLINSKY:

Representative Munns.

REP. MUNNS: (9th)

Thank you, Madam Speaker, another question, through you. Who will determine the difference between that grave digger and the casual wanderer through the woods that happens to stumble across --.

REP. THOMPSON: (13th)

Well, through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Please proceed, sir.

REP. THOMPSON: (13th)

The sites will be as they are now. There are, I mentioned, 14 different sites which are clearly marked as being of historical, of an historical nature. These sites will be clearly marked. They will be well-known to the archeological community and the person who wishes to do any work on one of those sites would have to go to the Department of Environmental Protection and/or to the Historical Commission and obtain permission to -- excuse me. May I -- I'm getting a signal from across the hall. May I yield to Representative Kusnitz who has more information.

DEPUTY SPEAKER POLINSKY:

We're now using hand signals, no doubt copied from the Indians. Representative Kusnitz, do you accept the yield?

REP. KUSNITZ: (112th)

Thank you, Madam Speaker. In answer to Representative Munns question, these sites are clearly marked and there would clearly be an trespass and an intent. It wouldn't be that you could casually stumble across these unless you knew where there were. We have

had on the books since 1982 a non-disclosure law where if the finder and investigator of an archeological site so applies to the Historic Commission, they do not have to reveal the sites to the public and this is a standard practice that we follow that is in practice all over the United States. Generally, it is somebody who is intent on selling artifacts or looting archeological sites will be going into areas that are posted and that are -- he would be clearly trespassing and it would not be hard to distinguish between somebody who was just a casual person and a person intent on selling and looting the graves.

DEPUTY SPEAKER POLINSKY:

Representative Munns.

REP. MUNNS: (9th)

Thank you, Madam Speaker. The reason I'm asking these questions is because I have had calls from constituents that do have metal detectors and that's why I want to make sure I'm clear on these points. Another question, Madam Speaker, the areas that have been sited in the bill that will -- the state property that will be used by the Indian tribes, are these areas commonly used for this kind of action, such as the person with the metal detectors, not the grave diggers, but the person that I'm concerned about, the person

with the metal detectors that just goes through the woods and looking for interesting things that they can dig up, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker, no. The person will be allowed to continue to do the general hobby type of exploration. However, it's like any other property, people simply cannot go on somebody else's property and explore it. If it's state property, generally it will be under the control of the Department of Environmental Protection. There will be rules and regulations are there are now pertaining to that type of exploration, but for the most part, as the state archeologist has assured us, about 80% to 90% of the land presently owned by the state would be continued to be open to those people exploring.

It's only after the archeologist, in conjunction with the Historical Commission, has identified a preserve or a sacred site that will be clearly marked and exploration will be prohibited unless the person has a permit and to obtain a permit, the person will not only have to be able to demonstrate that they know what they're doing so they don't cause unnecessary

damage, but they'll also have to be able to file a plan with the commission and after they've completed their work, issue a report to the commission.

What we're trying to do is to work with these groups and people such as you represent, Representative Munns, and enlist their aid so that the valued treasurers and the spiritual remains of our Native Americans are not lost forever.

DEPUTY SPEAKER POLINSKY:

Representative Munns.

REP. MUNNS: (9th)

Thank you, Madam Speaker, and I'd just like to thank the members of the task force for answering my questions. It's good to hear, Representative Thompson, what you just said, that you have been working with the hobby-type people who go out there and dig up what they can and I commend the task force members on their hard work and I support the bill. Thank you.

DEPUTY SPEAKER POLINSKY:

Thank you, sir. Will you remark further on the amendment? Representative Gelsi.

REP. GELSI: (58th)

Yes, thank you, Madam Speaker. I'd just like to remind a couple of people on the other side of the aisle who just said what a great amendment this is

which will become the bill, 22 pages, 30 sections and virtually every one of those sections have been changed in this amendment and we're going to vote on it and I'm going to support it because I think that probably you people on the task force did a good job and I just hope that we don't have to stay here until 6:00 in the morning to get it passed. Thank you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Will you remark further on the amendment? Will you remark further? Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker, a question, through you, to Representative Thompson please. Representative Thompson, I apologize if someone indicated it in the early testimony, but have all the tribal councils signed off, so to speak, on this amendment and are they relatively comfortable with the rewrite, not the bill as it originally was drafted, but of the rewrite amendment that's before us?

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker. The rewrite before us is essentially basically the original file, I would

think, especially as it has to do with sovereignty. Two of the tribes have been divided on parts of the sovereignty issue. I believe we have tried to accommodate those concerns and in fact indeed adopted some language in the rewrite that was suggested to us, but to be honest with you, we have not been in final touch with all of the tribes on the final file or final amendment, as you see it before you.

I did try to reach representatives of the two tribes and in one case I spoke directly with one representatives who seemed to be satisfied and in the second case I spoke with an intermediary who indicated to me that the problem had been somewhat quelled by adoption of the language that we are adopting today and we hope that in the extension of the task force we are able to work out any specific problems that at least two of the tribes still have.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Representative Thompson and I just have a couple of technical questions if you would bear with me. On line 34 of the amendment we are dealing with -- it says, "past life and culture of human being in the state," human beings, I assume we're using the broadest

possible definition of who that is. It does just mean Native Americans, is that true, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker, yes, that is correct.

REP. KRAWIECKI: (78th)

And on Page 2 of the amendment, line 48, I wonder if you could give me an example of what a monumental geological feature might be in the State of Connecticut, through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

I'll yield to our representative archeologist on this, Representative Kusnitz.

DEPUTY SPEAKER POLINSKY:

Representative Thompson, we seem to have two of your resident experts here. Which one did you want to call on?

REP. THOMPSON: (13th)

Representative Kusnitz please.

DEPUTY SPEAKER POLINSKY:

Will you accept the yield, Representative Kusnitz.

REP. KUSNITZ: (112th)

Thank you, Madam Speaker. Yes, the State Archeologists Office has indicated to me that there has been activity on places such as Mount Tom in Connecticut that could be deemed a sacred site in the State of Connecticut.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Thank you, Madam Speaker. Again, Representative Thompson or to Representative Kusnitz, I don't know which one would be appropriate, a couple of lines further, line 53 and 54, indicates a sacred object means any archeological artifact or other object associated with a sacred site and I'm wondering what we mean by associated with, through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker. I had the same question and I asked the State Archeologist and it may mean something like a stone with a carving in the stone that would indicate to them that it had some sacred or archeological significance.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Through you, Madam Speaker, when we then are referring to the "associated with" we are clearly referring to something that, again, spins back to the sacred site and it is an artifact that is found and has some direct relation to that site, through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker, yes, I believe that's correct, but I asked the question as you did and I did not extend it beyond the immediate site, so I suppose it's possible that something beyond the immediate site may relate back to that site, but I think it was my understanding that it would be in close proximity to the site.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

And my last question, Representative Thompson, deals with Section 8 of the amendment, that's line 236, it indicates in Sub A, "no person may conduct these kinds of things without a permit and then when

you drop down into Sub C, in line 267, it says, notwithstanding that fact the commission, in consultation with the State Archeologist may authorize an archeological investigation without a permit if time for investigation is limited."

Through you, Madam Speaker, what I'm wondering, for legislative intent, if you would, what kind of a timeframe do you mean in that respect, and secondly, what would be the controlling -- the controlling fact, I imagine, must be Sub A where everyone should have a permit, but under certain circumstances they'll be able to waive the permit or go in without a permit and just for legislative intent, if you could give us some more background as to when that might occur, through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Yes, through you, Madam Speaker, the application permit process or the permit application process is rather detailed to assure that a person performing some type of excavation, for example, would have credentials to do that. We have been concerned about the time limits right through here because, in my judgment, they seem rather tight and it's my understanding that in

matters dealing with archeology, they are sort of like an emergency ambulance service. They're always prepared and always ready and willing to go and the time limits did not seem to be a problem to them. However, the time limit for obtaining a permit does require some extensive work on the part of the person seeking the permit and in some cases, either due to weather conditions or construction or any other type of human conditions, I guess, the time may not permit the archeologist to take a look at something.

For legislative intent, we believe that the archeologist would oversee any type of investigation of this type and would be present or a designee would be present, so we were satisfied if a legitimate emergency in their eyes did occur, that the archeologist would assume responsibility for that and would oversee that investigation.

REP. KRAWIECKI: (78th)

Thank you, Representative Thompson and I do have two other little questions. On Page 10, line 313, there's a reference to in situ -- I don't know if I'm pronouncing it properly, preservation. I know in the original file that terminology appeared several times and I notice that it's been deleted and I think this is the only location that's still left. What is that,

through you, Madam Speaker?

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker, it's my understanding that if, for example, a burial site was located, it would not be objected to by the Indian tribe that may be related to that site to have that site just designated and even covered over with concrete or whatever may be building there as long as the site was identified and could be a place where they could go and pay their respects.

So, in summary, it would be keeping the body or the remains right there on site.

DEPUTY SPEAKER POLINSKY:

Representative Krawiecki.

REP. KRAWIECKI: (78th)

Through you, Madam Speaker, just so I understand -- because it's something a little alien to what I thought it might have been. What you're saying is the site, as long as it's been established, found, located and the like, described or whatever, if it's -- it can in fact be covered over and people can do things on top of the site as long as the location is found and established so that I imagine these Native Americans

may come back to the site and worship or whatever may be the event that occurs at that location? Is that correct, through you, Madam Speaker?

REP. THOMPSON: (13th)

Through you, Madam Speaker.

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Yes, that is correct.

REP. KRAWIECKI: (78th)

And lastly, Representative Thompson, on Page 388 -- I'm sorry, on line 388, Page 12, we are indicating the Commissioner of Environmental Protection shall develop procedures. Through you, Madam Speaker, do I take it that that is just a different terminology for regulations pursuant to, I think it's Article 4 of our state statutes?

DEPUTY SPEAKER POLINSKY:

Representative Thompson.

REP. THOMPSON: (13th)

Through you, Madam Speaker, yes, I believe, well, they would be developing regulations and I'm not quite sure. My understanding is that they would have different phases and different types of procedures, but essentially I suspect it would develop or be contained

in regulations. We did, and we hope that in the extension that all of these people would participate in that part of the development of those procedures, which I think would become regulations.

REP. THOMPSON: (13th)

Thank you, Representative Thompson. Thank you, Members of the House, for your indulgence.

DEPUTY SPEAKER POLINSKY:

Will you remark further on House Amendment "A"? Will you remark further on House Amendment "A"? If not, let us try your minds. All those in favor please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER POLINSKY:

Opposed nay.

The ayes clearly have it.

The amendment is adopted and ruled technical.

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House Amendment Schedule "A".

Strike everything after the enacting clause and insert the following in lieu thereof:

"Section 1. (NEW) As used in sections 2 to 13, inclusive, of this act:

(1) "Native American" means people who occupied Connecticut prior to European settlement and their historic descendents, Indians as defined by section 47-63 of the general statutes, as amended by section 22 of this act, who are residents of this state and all members of other tribes recognized by the United States

or by Canada or its Provinces who are residents of this state;

(2) "Archeological site" means a location where there exists material evidence that is not less than fifty years old of the past life and culture of human beings in the state;

(3) "Archeological artifact" means material evidence that is not less than fifty years old of past life and culture in the state that is found in connection with an archeological site;

(4) "Archeological investigation" means any subsurface tests or excavation or other activity resulting in the disturbance of removal of artifacts or data from an archeological site;

(5) "Sacred site" or "sacred land" means any space, including an archeological site, of ritual or traditional significance in the culture and religion of Native Americans that is listed or eligible for listing on the National Register of Historic Places (16 USC 470a, as amended) or the state register of historic places defined in section 10-321a of the general statutes, including, but not limited to, marked and unmarked human burials, burial areas and cemeteries, monumental geological or natural features with sacred meaning or a meaning central to a group's oral traditions; sites of ceremonial structures, including sweat lodges; rock art sites, sites of great historical significance to a tribe native to this state;

(6) "Sacred object" means any archeological artifact or other object associated with a sacred site;

(7) "State lands" mean lands owned, leased, or administered by the state or in the custody or control of any state agency, department of instrumentality of the state.

Sec. 2. (NEW) There is established a Native American heritage advisory council to evaluate and make recommendations on the Native American heritage to the state archeologist and the Connecticut historical commission. Such council shall consist of the following members: One representing each of the following Indian tribes, appointed by the tribe: The Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hill Paugussett; one representing the Indian affairs council, appointed by the chairperson of the council; one representing the commissioner of environmental protection, appointed by said commissioner; one representing the Archeological Society of Connecticut, appointed by the president pro tempore of the senate; and three who are knowledgeable in Native American

history, traditions and archeology, one appointed by the speaker of the house of representatives, one appointed by the minority leader of the house of representatives and one appointed by the minority leader of the senate.

Sec. 3. Section 10-321 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The Connecticut historical commission shall consist of twelve members to be appointed by the governor. On or before January fifth in the even-numbered years he shall appoint six members for terms of four years each to replace those whose terms expire. One of such members shall be the state historian. [The terms of all members shall terminate on July 1, 1987, or upon the appointment of a successor, whichever is later.] Commencing on July 1, 1987, members shall be appointed in accordance with the provisions of section 4-9a. No member shall serve for more than two consecutive full terms which commence after July 1, 1987. Any member who fails to attend three consecutive meetings or who fails to attend fifty per cent of all meetings held during any calendar year shall be deemed to have resigned from office. The governor shall biennially designate one member of the commission to be chairman. The governor shall fill any vacancy for any unexpired portion of the term and he may remove any commissioner as provided by section 4-12. No compensation shall be received by the members of the commission but they shall be reimbursed for their necessary expenses.

(b) The commission may (1) study and investigate historic structures and landmarks in this state and encourage and recommend the development, preservation and marking of such historic structures and landmarks found to have educational, recreational and historic significance; (2) prepare, adopt and maintain standards for a state register of historic places; (3) update and keep current the state historic preservation plan; (4) administer the National Register of Historic Places Program; (5) assist owners of historic structures in seeking federal or other aid for historic preservation and related purposes; (6) cooperate with the department of economic development by furnishing data, historical facts and findings which will enable said department to promote and publicize the existence of historic structures and landmarks within the state either of a public nature or operated and maintained by nonprofit organizations; (7) recommend to the general assembly the placing and maintaining of suitable markers,

memorials or monuments or other edifices to designate historic structures and landmarks found to have historical significance; (8) make recommendations to the general assembly regarding the development and preservation of historic structures and landmarks owned by the state; (9) maintain a program of historical, architectural, and archeological research and development including surveys, excavation, scientific recording, interpretation and publication of the historical, architectural, archeological and cultural resources of the state; (10) cooperate with promotional, patriotic, educational and research groups and associations, with local, state and national historical societies, associations and commissions, with agencies of the state and its political subdivisions and with the federal government, in promoting and publicizing the historical heritage of Connecticut; (11) formulate standards and criteria to guide the several municipalities in the evaluation, delineation and establishment of historic districts; (12) cooperate with the state building inspector, the codes and standards committee and other building officials and render advisory opinions and prepare documentation regarding the application of the state building code to historic structures and landmarks if requested by owners of historic structures and landmarks, the state building inspector, the codes and standards committee or other building officials; (13) review planned state and federal actions to determine their impact on historic structures and landmarks; (14) operate the Henry Whitfield House of Guilford, otherwise known as the Old Stone House, as a state historical museum and, in its discretion, charge a fee for admission to said museum and account for and deposit the same as provided in section 4-32; (15) provide technical and financial assistance to carry out the purposes of this chapter; (16) ADOPT REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 54 FOR THE PRESERVATION OF SACRED SITES AND ARCHEOLOGICAL SITES, AND (17) INVENTORY STATE LANDS TO IDENTIFY SACRED SITES AND ARCHEOLOGICAL SITES. The commission shall study the feasibility of establishing a state museum of Connecticut history at an appropriate existing facility.

(c) The Connecticut historical commission shall be within the department of education for administrative purposes only.

(d) Notwithstanding the provisions of this section or section 1-19, the Connecticut Historical Commission may withhold from disclosure to the public information

relating to the location of archeological sites under consideration for listing by the State Historical Commission or those listed on the National Register of Historic Places or the state register of historic places whenever the commission determines that disclosure of specific information would create a risk of destruction or harm to such sites. On and after July 1, 1982, the provisions of this subsection shall not apply to any such site unless the person who reported or discovered such site has submitted a written statement to the commission requesting that no disclosure be made. Upon receipt of such statement, the commission may withhold such information from disclosure until the July first next succeeding such receipt. Such person may request that a period of nondisclosure be extended by submitting such statements prior to July first of any year subsequent to 1982.

Sec. 4. Section 10-321a of the general statutes is repealed and the following is substituted in lieu thereof:

For the purposes of sections 10-321, 10-321a to 10-321f, inclusive, AS AMENDED BY THIS ACT, "commission" shall mean the Connecticut historical commission established under section 10-321, AS AMENDED BY SECTION 3 OF THIS ACT; "municipality" shall include any town, city or borough; "private organization" shall mean a nonprofit organization which has the power to acquire, relocate, restore and maintain historic structures and landmarks in the state of Connecticut; "historic district" shall mean an area in a municipality established under section 7-147a or by special act; "historic structures and landmarks" shall mean any building, structure, object or site that is significant in American history, architecture, archeology and culture or property used in connection therewith INCLUDING SACRED SITES, AND ARCHEOLOGICAL SITES: "historic preservation" shall mean research, protection, restoration, stabilization and adaptive use of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of this state, its municipalities or the nation; and "state register of historic places" shall mean the commission's's itemized list locating and classifying historic structures and landmarks throughout the state, as discovered in the commission's field survey of 1966-67 and as subsequently augmented.

Sec. 5. (NEW) (a) The state museum of natural history shall be the state repository for all artifacts found and data gathered during archeological investigations on the state lands.

(b) On or before July 1, 1990, the board of directors of the state museum of natural history shall establish a collections policy which shall include procedures for (1) acquisition of material and the acceptance of gifts appropriate to the public trust, (2) the preservation, care and display of sacred objects, and the use of sacred objects for religious and ceremonial purposes and (3) loans and transfers of sacred objects and other materials, including archeological artifacts, to Native American museums or other institutions.

Sec. 6. (NEW) The Connecticut historical commission, with the concurrence of the state archeologist, may examine sites and lands to determine if such sites or lands are of state or national archeological importance and meets all the requirements for listing on the National Register (16 USC 470a) or the state register of historic places defined in section 10-321a of the general statutes. Upon determination that any site or land investigated is of state or national archeological importance, the commission may declare such site or land to be a state archeological preserve, provided (1) each property owner of any private site or land proposed for designation has been informed of the implications of the designated and consented in writing to such designation, (2) the state agency with custody or control of any public land has been notified in writing of the proposed designation and (3) written recommendations on the proposal have been sent to the commission by the state archeologist and, if there is evidence of Native American activity, the Native American heritage advisory council established pursuant to section 2 of this act., The commission shall cause notice of such designation to be filed on the land records in the town where such preserve is located.

Sec. 7. (NEW) (a) The Connecticut historical commission shall adopt regulations in accordance with the provisions of chapter 54 of the general statutes for the establishment, care, use and management of sites or lands designated as state archeological preserves pursuant to section 6 of this act.

(b) On and after the effective date of designation of sites or lands as a state archeological preserve, no person may conduct any archeological investigation, initiate construction or demolition activities or undertake any other activity which would endanger the archeological integrity or sacred importance of such preserve without complying with the provisions of section 8 of this act except if the commission declares

an emergency.

Sec. 8. (NEW) (a) No person may conduct an archeological investigation on state lands or on a state archeological preserve without a permit from the Connecticut historical commission. any such permit shall be issued with the concurrence of the state archeologist. The applicant shall submit an application on such form as the commission may prescribe and with such information as the commission, after consultation with the state archeologist and the advisory council established pursuant to section 2 of this act, deems necessary, including, but not limited to, the time, scope, location and specific purpose of the proposed research. The applicant shall submit (1) evidence satisfactory to the commission of qualifications to perform the excavation, to the commission of qualifications to perform the excavation, including evidence of experience, training and knowledge; (2) an excavation plan for the site satisfactory to the commission which includes provisions on the method of excavation and (3) a written statement that upon completion of the excavation the applicant shall submit a report of the investigation which shall include a description of archeological artifacts discovered and relevant maps, documents, drawings and photographs. No permit shall be issued for an investigation that would disturb a known Native American cemetery, burial site or other sacred site without the review of the advisory council established pursuant to section 2 of this act. Failure to comply with the terms of a permit issued under this section shall be grounds to deny a subsequent permit.

(b) The commission shall adopt regulations in accordance with the provisions of chapter 54 of the general statutes establishing procedures for the issuance of permits required under this section. Such regulations shall be developed with the concurrence of the state archeologist.

(c) Notwithstanding the provisions of this section, the commission, in consultation with the state archeologist, may authorize an archeological investigation without a permit if time for investigation is limited.

(d) The applicant shall pay the cost of reburial of any human skeletal remains discovered in accordance with the terms and conditions of a permit issued under this section.

Sec. 9. (NEW) Each state department, institution and agency shall review, in consultation with the Connecticut historical commission, their policies and

practices for consistency with the preservation and study of the state's archeological sites and sacred lands and sties. Such review shall include preparation of an evaluation document which specifies projects and programs requiring detailed consultation to identify and protect archeological sites and sacred lands and sites. Any project submitted to the commission for review under the provisions of sections 22a-1a to 22a-1f, inclusive, of the general statutes, as amended by this act, is exempt from the provisions of this section.

Sec. 10. (NEW) (a) Any person who knows or reasonably believes that any human burials or human skeletal remains are being or about to be disturbed, destroyed, defaced, removed or exposed shall immediately notify the chief medical examiner and state archeologist of such fact. If human burials or human skeletal remains are encountered during construction or agricultural, archeological or other activity that might alter, destroy or otherwise impair the integrity of such burials or remains, the activity shall cease and not resume unless authorized by the chief medical examiner and the state archeologist provided such authorization shall be made within five days of completion of the investigation of the chief medical examiner pursuant to subsection (b) of this section.

(b) After notification under subsection (a) of this section, the chief medical examiner shall determine if the remains represent a human death required to be investigated under section 19a-406 of the general statutes. After completion of his investigation, if the chief medical examiner determines that the remains may be the remains of a Native American or were found in the subsurface and buried for more than fifty years, the chief medical examiner shall notify the state archeologist of such fact. The state archeologist, upon such notification, shall in consultation with the Connecticut historical commission, the Native American heritage advisory council, established under section 2 of this act, the commissioner of environmental protection, and the landowner determine, within seventy-two hours, if the site where such remains were discovered can be preserved in situ and protected by a preservation restriction as defined in section 47-42a of the general statutes.

(c) If in situ preservation is not prudent and feasible or not agreed to by the landowner, the state archeologist, upon consultation with the landowner and, if appropriate, the Native American heritage advisory

council, the Connecticut historical commission, and the commissioner of environmental protection shall, if feasible, provide for removal and reburial of the remains at another location or for additional archeological investigations and scientific analysis prior to reburial. Any excavation and recovery of remains by the state archeologist shall be completed not more than five business days after notification by the chief medical examiner under this section unless the landowner consents to additional days.

(d) Human skeletal remains discovered during archeological investigation shall be excavated under the supervision of the state archeologist, pursuant to a written agreement between the state archeologist and the holder of the permit specifying the excavation, methods to be used and data to be collected. Due care shall be exercised during excavation, subsequent transport and storage of skeletal remains to insure that the sacred meanings of the remains for Native Americans are respected and protected.

(e) The provisions of this section shall not be construed to require the owner of private lands on which human skeletal remains are found to pay the costs of excavation, removal analysis or reburial of such remains.

Sec 11. (NEW) (a) Notwithstanding the provisions of sections 7-67 and 7-69 of the general statutes, the state archeologist, in consultation with the Connecticut historical commission, the Native American heritage advisory council, established under section 2 of this act, the commissioner of environmental protection and the archeological community, shall adopt regulations in accordance with the provisions of chapter 54 of the general statutes establishing procedures for the storage, analysis and reburial of human skeletal remains discovered during an archeological investigation.

(b) The commissioner of environmental protection shall designate state lands for use as sites for the reburial of Native American human skeletal remains. Such sites shall be deemed sacred lands and designated as state archeological preserves in accordance with section 6 of this act.

(c Any such human remains discovered on and after the effective date of this act shall be reburied. The state archeologist, the Native American advisory council and the commissioner of environmental protection shall jointly determine the contents and organization of each reburial ceremony for Native Americans.

Sec. 12. (NEW) (a) No person shall excavate, damage or otherwise alter or deface any archeological or sacred site on state lands or within a state archeological preserve unless such activity is in accordance with the terms and conditions of a permit issued under section 8 of this act or in the case of an emergency.

(b) No person shall sell, exchange, transport, receive or offer to sell, any archeological artifact or human remains collected, excavated or otherwise removed from state lands or a state archeological preserve in violation of subsection (a) of this section.

(c) No person shall engage in any activity that will desecrate, disturb or alter any Native American burial, sacred site or cemetery, including any associated objects, unless the activity is engaged in pursuant to a permit issued under section 8 of this act or under the direction of the state archeologist.

(d) Any person who violates any provision of this section shall be fined not more than five thousand dollars or twice the value of the site or artifact that was the subject of the violation, whichever is greater, and imprisoned not more than five years or both.

(e) Any person who violates any provision of this section shall be liable to the state for the reasonable costs and expenses of the state in restoring the site and any associated sacred objects or archeological artifacts.

Sec. 13. (NEW) On or before January 1, 1991, the Connecticut historical commission, in consultation with the state archeologist, the Native American heritage advisory council established under section 2 of this act and the commissioner of environmental protection shall develop procedures to inventory environmental protection shall develop procedures to inventory Native American burial sites and cemeteries, such procedures shall provide for the availability of the inventory to state agencies, departments and institutions.

Sec. 14. Section 23-75 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The commissioner of environmental protection shall acquire land by purchase, gift or devise for the purposes set froth in section 23-74. The title to any land acquired pursuant to sections 23-73 to 23-80, inclusive, shall be vested in the state. In determining whether sites shall be acquired, the department shall consider whether the site is:

(1) Identified as having high priority recreation, forestry, fishery, wildlife or conservation value and

as being consistent with the state comprehensive plan for outdoor recreation and the state plan of conservation and development; (2) a prime natural feature of the Connecticut landscape, such as a major river, its tributaries and watershed, mountainous territory, an inland or coastal wetland, a significant littoral or estuarine or aquatic site or any other important geologic feature; (3) habitat for native plant or animal species listed as threatened or endangered or of special concern in the data base; (4) a relatively undisturbed outstanding example of a native ecological community which is now uncommon; [or] (5) threatened with conversion to incompatible uses; OR (6) CONTAINS SACRED SITES OR ARCHEOLOGICAL SITES OF STATE OR NATIONAL IMPORTANCE. In acquiring a site that has been identified as having a high priority recreation value, the department shall give priority to sites near population centers.

(b) No site shall be acquired which has not been evaluated by the department, through the data base, to determine if threatened or endangered species or species of special concern inhabit or use the site or to determine if the site is of special ecologic quality or has other outstanding natural values as a community of living things.

Sec. 15. Section 22a-1b of the general statutes is repealed and the following is substituted in lieu thereof:

The general assembly directs that, to the fullest extent possible:

(a) Each state department, institution or agency shall review its policies and practices to insure that they are consistent with the state's environmental policy as set forth in sections 22a-1 and 22a-1a.

(b) Each state department, institution or agency responsible for the primary recommendation or initiation of actions which may significantly affect the environment shall in the case of each such proposed action make a detailed written evaluation of its environmental impact before deciding whether to undertake or approve such action. All such environmental impact evaluations shall be detailed statements setting forth the following: (1) A description of the proposed action; (2) the environmental consequences of the proposed action, including direct and indirect effects which might result during and subsequent to the proposed action; (3) any adverse environmental effects which cannot be avoided and irreversible and irretrievable commitments of resources should the proposal be implemented;

(4) alternatives to the proposed action, including the alternative of not proceeding with the proposed action; (5) mitigation measures proposed to minimize environmental impacts; (6) an analysis of the short term and long term economic, social and environmental costs and benefits of the proposed action; [and] (7) the effect of the proposed action on the use and conservation of energy resources; AND (8) A DESCRIPTION OF THE EFFECTS OF THE PROPOSED ACTION ON SACRED SITES OR ARCHEOLOGICAL SITES OF STATE OR NATIONAL IMPORTANCE. AS USED IN THIS SECTION, "SACRED SITES" AND "ARCHEOLOGICAL SITES" SHALL HAVE THE SAME MEANING AS IN SECTION 1 OF THIS ACT.

Sec. 16. Section 47-59a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) It is hereby declared the policy of the state of Connecticut to recognize that all resident Indians of qualified Connecticut tribes are considered to be full citizens of the state and they are hereby granted all the rights and privileges afforded by law, that all of Connecticut's citizens enjoy. It is further recognized that said Indians have certain special rights to tribal lands as may have been [granted to them in the past] SET FORTH by treaty or other agreements.

(b) THE STATE OF CONNECTICUT FURTHER RECOGNIZES THAT THE INDIGENOUS TRIBES, THE SCHAGHTICOKE, THE PAUCATUCK EASTERN PEQUOT,L THE MASHANTUCKET PEQUOT, THE MOHEGAN AND THE GOLDEN HILL PAUGUSSETT ARE SELF-GOVERNING ENTITIES AND SOVEREIGN NATIONS POSSESSING ATTRIBUTES OF SOVEREIGNTY OVER TRIBAL MEMBERS AND RESERVATIONS. SUCH ATTRIBUTES INCLUDE, BUT ARE NOT LIMITED TO, THE POWER TO: (1) DETERMINE TRIBAL MEMBERSHIP AND RESIDENCY ON RESERVATION LAND; (2) DETERMINE THE TRIBAL FORM OF GOVERNMENT; (3) REGULATE TRADE AND COMMERCE ON THE RESERVATION; (4) MAKE CONTRACTS, AND (5) DETERMINE TRIBAL LEADERSHIP IN ACCORDANCE WITH TRIBAL PRACTICE AND USAGE.

Sec. 17. (NEW) Effective October 1, 1990, the governor shall enter into a trust agreement with each willing indigenous Indian tribe. Any such trust agreement shall define the relationship of the state with the tribe that is party to the agreement and shall be consistent with recommendations on trust agreements contained in the final report of the Indian Affairs Task Force made pursuant to special act 87-103, as amended by section 28 of this act.

Sec. 18. (NEW) (a) Each tribal leader shall file with the governor his name and a written description of

the method of selecting tribal leaders and the process by which tribal leaders exercise their authority. The governor shall file such description with the secretary of the state and the Indian Affairs Council established under section 47-59b of the general statutes, as amended by section 20 of this act.

(b) A leadership dispute shall be resolved in accordance with tribal usage and practice. Upon request of a party to a dispute, the dispute may be settled by a council. Each party to the dispute shall appoint a member to the council and the parties shall jointly appoint one or two additional members provided the number of members of the council shall be an odd number. If the parties cannot agree on any joint appointment, the governor shall appoint any such member who shall be a person knowledgeable in Indian affairs. the decision of the council shall be final on substantive issues. An appeal may be taken to the superior court to determine if provisions of the written description filed with the secretary of the state pursuant to this section have been followed. If the court finds that the dispute was not resolved in accordance with the provisions of the written description, it shall remand the matter with instructions to reinstitute proceedings, in accordance with such provisions.

Sec. 19. (NEW) (a) On or before March 15, 1990, and annually thereafter, the tribal leader selected in accordance with the method filed under section 18 of this act shall file a copy of the rules for tribal membership and government and a current membership roll with the governor. The membership rules may include provisions for revocation of membership. The governor shall file the rules and membership roll with the secretary of the state and the Indian Affairs Council established under section 47-59b of the general statutes, as amended by section 20 of this act.

(b) A membership dispute shall be resolved in accordance with tribal usage and practice. Upon request of a party to a dispute, the dispute may be settled by a council. Each party to the dispute shall appoint a member of the council and the parties shall jointly appoint one or two additional members provided the number of members of the council shall be an odd number. If the parties cannot agree on any joint appointment, the governor shall appoint such member who shall be a person knowledgeable in Indian affairs. The decision of the council shall be final on substantive issues but an appeal may be taken to the superior court to determine if membership rules filed in the

office of the secretary of the state pursuant to this section have been followed. If the court finds that the dispute was not resolved in accordance with the provisions of the written description, it shall remand the matter with instructions to reinstitute proceedings, in accordance with such provisions.

Sec. 20. Section 47-59b of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There shall continue to be an Indian Affairs Council, consisting of one representative from each of the following Indian tribes: The Schaghticoke, the Paucatuck EASTERN Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hill Paugussett; to be appointed by the respective tribes, and three persons appointed by the governor who are electors within the state but not elected or appointive officials of the state or any of its political subdivisions and are not of Indian lineage. Appointments made under this section shall be for terms of three years. [, beginning October 1, 1973.] Each Indian tribe may designate from among its members an alternate representative who may serve from time to time in place of its appointive representative. Vacancies on said council shall be filled by the respective appointing authority for the unexpired balance of the term. The members of said council shall be compensated for their services thereon at the rate of twenty-five dollars per day and shall be reimbursed for their necessary expenses. Said council shall provide services to the Indian reservation community of the state and formulate programs suitable to its needs. The council may select an executive director who shall serve at no expense to the state but may be compensated with funds contributed by the tribes.

(b) [The Indian Affairs Council shall determine the qualifications of individuals entitled to be designated as Indians for the purposes of administration of this section and sections 47-59a, 47-63, 47-64, 47-65, 47-651 and 47-66, and shall decide who is eligible to reside on reservation lands, subject to the provisions of subsection (a) of section 47-64 and section 47-63.

(c)] The Indian Affairs Council shall review the regulations governing Indian affairs in the state of Connecticut and advise the commissioner* on promulgation of new regulations. The council shall report annually, no later than September first, to the governor and the general assembly on the activities of the council and the state of affairs of the Indian people in the state.

Sec. 21. Section 47-60 of the general statutes is

repealed and the following is substituted in lieu thereof:

(a) ANY RESERVATION LAND HELD IN TRUST BY THE STATE ON THE EFFECTIVE DATE OF THIS ACT SHALL CONTINUE TO BE HELD IN TRUST IN PERPETUITY TO PREVENT ALIENATION AND TO INSURE ITS AVAILABILITY FOR FUTURE GENERATIONS OF INDIANS. Except as otherwise expressly provided, all conveyances by any Indian of any land belonging to,l or which has belonged to, the estate of any tribe shall be void.

(b) A TRIBE SHALL EXERCISE ON RESERVATION LAND ALL RIGHTS INCIDENT TO OWNERSHIP EXCEPT THE POWER OF ALIENATION.

Sec. 22. Section 47-63 of the general statutes is repealed and the following is substituted in lieu thereof:

The following terms as used in [sections 47-63 to 47-66, inclusive] THIS CHAPTER, shall have the following meanings: "Indian" means a person [of at least one-eighth Indian blood] WHO IS A MEMBER of any of the following tribes, Paucatuck EASTERN Pequot, Mashantucket Pequot, Schaghticoke, Golden Hill Paugussett and Mohegan; [or as may be determined by the council under the provisions of subsection (b) of section 47-59b;] "reservation" means the Paucatuck EASTERN Pequot reservation in the town of North Stonington, assigned to the use of the Paucatuck EASTERN Pequot tribe; the Golden Hill Paugussett reservations in the towns of Trumbull and Colchester, assigned to the Golden Hill Paugussett tribe; the Schaghticoke reservation in the town of Kent, assigned to the Schaghticoke tribe, and the Mashantucket Pequot reservation in the town of ledyard, assigned to the Mashantucket Pequot tribe; "tribal funds" means the money held by the state for the use and benefit of a tribe as distinguished from legislative appropriations.

Sec. 23. Section 47-64 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) [Reservations shall be maintained for the exclusive benefit of Indians who may reside on such lands, except that any person, other than an Indian, who lawfully resided on a reservation on July 1, 1973, may continue to reside thereon. The lawful spouse and children of an Indian may reside on a reservation with such Indian for as long as such Indian so resides. If such spouse or children do not qualify for such residence on the death of such Indian, such spouse or children shall be reimbursed on the basis of the actual sale price of any building minus any expenses to the

state incurred in the sale of any building on such reservation which may have belonged to such Indian.] EACH TRIBE SHALL DETERMINE WHO MAY LIVE ON RESERVATION LAND PROVIDED ANY PERSON LAWFULLY RESIDING ON A RESERVATION ON THE EFFECTIVE OF THIS ACT MAY CONTINUE TO RESIDE ON SUCH RESERVATION. RESIDENTS MAY BE REMOVED IN ACCORDANCE WITH RULES FILED UNDER SECTION 19 OF THIS ACT.

(b) [No portion of any reservation shall be leased, but any lease in effect on July 1, 1973, may continue for the duration of such lease and may be renewed at the discretion of the Indian Affairs Council.] EACH TRIBE MAY LEASE RESERVATION LAND FOR NOT MORE THAN TWENTY-FIVE YEARS.

(c) Notwithstanding any provision of the general statutes or any special act to the contrary, any Indian reservation property that escheats to the state shall be preserved as an Indian historical area, under the control of the department of environmental protection.

Sec. 24. Subsection (a) of section 12-19a of the general statutes is repealed and the following is substituted in lieu thereof:

(a) On or before January first, annually, the secretary of the office of policy and management shall determine the amount due, as a state grant in lieu of taxes, to each town in this state wherein state-owned real property AND RESERVATION LAND HELD IN TRUST BY THE STATE FOR AN INDIAN TRIBE, except that which was acquired and used for highways and bridges, but not excepting property acquired and used for highway administration or maintenance purposes, is located. The grant payable to any town under the provisions of this section in the state fiscal year commencing July 1, 1988, and each fiscal year thereafter, shall be equal to the total of (1) one hundred per cent of the property taxes which would have been paid with respect to any facility listed in subsection (w) of section 1-1 and any other facility certified by the commissioner of corrections, on or before August first of each year, to have been used for incarcerative purposes for at least six months during the preceding fiscal year and, (2) twenty per cent of the property taxes which would have been paid with respect to all other state-owned real property, except for the exemption applicable to such property, on the assessment list in such town for the assessment date two years prior to the commencement of the state fiscal year in which such grant is payable.

Sec. 25. Subdivision (2) of section 12-81 of the general statutes is repealed and the following is

substituted in lieu thereof:

(2) Property belonging to, or held in trust for, this state AND RESERVATION LAND HELD IN TRUST BY THE STATE FOR AN INDIAN TRIBE.

Sect. 26. Section 12-81 of the general statutes is amended by adding subdivision (71) as follows:

(NEW) (71) Any motor vehicle owned by a member of an indigenous Indian tribe or spouse and garaged on the reservation of the tribe.

Sec. 27. Section 10-266 of the general statutes is repealed and the following is substituted in lieu thereof:

Any town in which state property OR RESERVATION LAND HELD IN TRUST BY THE STATE FOR AN INDIAN TRIBE is located and from which pupils residing on such state property OR RESERVATION LAND attend a public elementary or high school at the expense of such town shall be paid by the state an amount which shall be determined in the following manner: The amount paid to the town pursuant to section 10-262c shall be subtracted from the town's net current expenditures, as defined in subsection (a) of section 10-261; the remainder shall then be divided by the number of pupils in average daily membership, as defined in said subsection (a); the resulting per pupil amount shall then be multiplied by the number of pupils who reside on state property and attend school at such town's expense, and the cost of transporting such pupils shall be added to the resulting product. Data from the fiscal year prior to the fiscal year in which payment is made shall be used to calculate each grant under this section. The provisions of this section shall not apply to any special education expenses for pupils residing on state property and receiving special education instruction at the expense of such town. Payment for the provision of such special education instruction shall be made in accordance with the provisions of subsection (e) of section 10-76d.

Sec. 28. Special act 87-103 is amended to read as follows:

(a) There is established a tax force on Indian affairs to review existing statutes, budgets, agencies and programs affecting Connecticut Indians. The task force shall study and make recommendations on all aspects of the state's responsibilities for Indian affairs including, but not limited to, the following: (1) [Title to reservation land and state responsibility for land held in trust for a tribe by the state; (2) state responsibility for reservations; (3) the jurisdiction of criminal and civil law on reservations

and law enforcement; (4) the legal process for determining tribal membership; (5) the rights of tribal government; (6) the escheat provisions of section 47-64 of the general statutes; (7) the determination of membership of Indians of tribes not recognized by the state on the Indian Affair's Council; (8) the imposition of state and local taxes on reservations and tribes; (9) access to sacred sites on state and private land for ceremonial purposes; (10) determination of procedures to be followed upon discovery of a burial site; (11) the responsibility for Indian remains, including those of Indians of tribes not recognized by the state; (12)] THE RESOLUTION OF STATE GOVERNMENT ROLES AND DUTIES TO NATIVE AMERICANS; (2) THE ROLE, STRUCTURE AND FUNDING OF THE INDIAN AFFAIR'S COUNCIL; (3) RESOURCES AVAILABLE FOR TECHNICAL ASSISTANCE TO TRIBAL GOVERNMENT; (4) STATE ENDORSEMENT OR ASSISTANCE TO TRIBES SEEKING FEDERAL RECOGNITION; (5) PRESERVATION OF RESERVATION LAND FOR TRIBES AND THE ESCHEAT PROVISIONS OF SECTION 47-64 OF THE GENERAL STATUTES; (6) ACCESS TO SACRED SITES ON STATE AND PRIVATE LAND FOR CEREMONIAL PURPOSES; (7) AUTHORIZATION OF INDIAN SPIRITUAL LEADERS TO PERFORM MARRIAGES; (8) APPLICATION OF THE STATE SALES TAX TO TRANSACTIONS ON RESERVATIONS; (9) DESCRIPTION AND REVIEW OF TRUST AGREEMENTS; (10) JURISDICTION FOR CRIMINAL AND CIVIL LAW ON RESERVATIONS; (11) ways to increase state government awareness and sensitivity to [Indians; (13) the adequacy of job training and economic assistance for tribes and the need for additional programs; and (14)] NATIVE AMERICANS and (12) the impact of expected federal budget cuts for Indian development and proposed measures to deal with such cuts.

(b) the task force shall consist of sixteen members as follows: (A) One representing each of the five Connecticut tribes appointed by said tribes; (B) four Indian persons knowledgeable in the field of federal Indian law and Connecticut Indian affairs, culture, history and law, appointed by the governor; (C) an archeologist knowledgeable in Indian affairs, appointed by the governor; (D) the secretary of the office of policy and management, the commissioner of environmental protection, the chairman of the Indian Affairs Council or their designees and (e) three members of the general assembly, from either house, one appointed by the president pro tempore of the senate, one appointed by the speaker of the house of representatives and one appointed jointly by the minority leaders of the house of representatives and

the senate. Any designee shall have full voting authority. Said task force shall choose a chairman from among its members.

(c) The task force shall hold its first meeting, to be called by the commissioner of environmental protection, on or before September 1, 1987. The task force shall submit a report of its study and recommendations to the governor and general assembly on or before [January 1, 1989] FEBRUARY 1, 1990. The task force may report recommendations, in whole or in part, at any time prior to said date.

Sec. 29. Sections 47-66e and 47-66f of the general statutes are repealed.

Sec. 30. This act shall take effect from its passage, except that sections 25 and 26 shall take effect July 1, 1989, and sections 1 to 26, inclusive, and section 31 shall take effect October 1, 1989."

******

DEPUTY SPEAKER POLINSKY:

Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, will all members please come to their seats. Staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll. Members report to the Chamber. Members to the Chamber please. The House is voting by roll.

DEPUTY SPEAKER POLINSKY:

Have all members voted and is your vote properly recorded? Have all members voted? If all members have voted, the machine will be locked and the Clerk will

take a tally. Representative Grabarz. I believe Representative Grabarz said in the affirmative. Is that correct? Correct. The Clerk will take note.

Will you announce the tally.

CLERK:

HB7479, as amended by House "A".

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not Voting	4

DEPUTY SPEAKER POLINSKY:

The bill as amended is passed.

Are there any announcements or Points of Personal Privilege? Representative Stolberg.

REP. STOLBERG: (93rd)

Madam Speaker. Madam Speaker, for an introduction please.

DEPUTY SPEAKER POLINSKY:

Please proceed, sir.

REP. STOLBERG: (93rd)

Madam Speaker, the Chamber is honored today by the presence some outstanding dramatists from Greece. I was privileged a few months ago to witness a performance of Promethius Unbound in the shadows of

Representative Cocco in the affirmative.

The Clerk please announce the tally.

CLERK:

HB7263

Total number voting	126
Necessary for passage	64
Those voting yea	126
Those voting nay	0
Those absent and not voting	25

SPEAKER BALDUCCI:

The bill is passed.

Are there any announcements or points of personal privilege? Representative Collins of the 117th.

REP. COLLINS: (117th)

Thank you, Mr. Speaker. Joining us today in the Gallery is the fourth grade class from Peck Place School in Orange with their teachers, Mrs. Cohen, Mrs. Arkos, Mrs. Slowman. They're coming here on our final day of regular session to observe government in action. If they would please stand, I would ask the House to give them their usual warm welcome. (Applause)

Are there any other announcements or points? If not, we'll return to the Call of the Calendar.

CLERK:

Page 7, Calendar 504, Substitute for HB7479, AN ACT

IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON INDIAN AFFAIRS, as amended by House "A" and Senate "A". Favorable Report of the Committee on Appropriations.

REP. THOMPSON: (13th)

Mr. Speaker.

SPEAKER BALDUCCI:

Representative Thompson of the 13th.

REP. THOMPSON: (13th)

Mr. Speaker, may I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER BALDUCCI:

The question is on passage. Will you remark, Sir?

REP. THOMPSON: (13th)

Yes, Mr. Speaker. This bill was before us a week ago and was passed unanimously. It went to the Senate and an amendment was added to the bill at that time. At this time, may I call Senate Amendment LCO9070.

SPEAKER BALDUCCI:

The Clerk please call LCO9070, previously designated Senate "A".

CLERK:

LCO9070, Senate "A" offered by Senator Spellman.

SPEAKER BALDUCCI:

The question is on summarization. Is there

objection? Representative Thompson.

REP. THOMPSON: (13th)

Thank you, Mr. Speaker. Mr. Speaker, after the bill left the House the attorney general's office visited us. It appears they have some litigation involving two of the tribes, so they have requested some changes and I'll point those out to you.

The first change is on line 40, which is a simple technical change. We had sections 5 and 6 by using the word or on line 40, we have changed 5 and 6 to simply 5.

A more substantive change appears on line 80. The reason for the change in line 80, section 17b is to protect the interest of the State in two different actions concerning land rights involving two tribes, the Shatakoke and the Mohecans.

It was felt by the attorney general's office that this change will return the players to a level playing field, will not harm the cases in court, but will protect the interest of the State.

On line 92, it's another technical change that's related to it and those are the changes, Mr. Speaker. The amendment was passed by the Senate unanimously. I move adoption of the amendment.

SPEAKER BALDUCCI:

Will you remark further on the amendment? Representative Kusnitz of the 112th.

REP. KUSNITZ: (112th)

Thank you, Mr. Speaker. Mr. Speaker, this is a friendly amendment, passed unanimously in the Senate. I would ask that the House do the same so that we can have a viable vehicle for the discussions to go on with regarding sovereignty rights and we can protect the unmarked burial grounds in Connecticut.

SPEAKER BALDUCCI:

Will you remark further on the amendment? If not, we'll try your minds. All those in favor of the amendment please signify by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER BALDUCCI:

Opposed nay. The ayes have it. The amendment is adopted.

Will you remark further on the bill as amended? If not, staff and guests to the well. Members please be seated. The machine will be opened.

CLERK:

The House of Representatives is voting by roll. Members to the Chamber. Members to the Chamber, please, the House is voting by roll.

SPEAKER BALDUCCI:

Have all the members voted and is your vote properly recorded? If all the members have voted, the machine will be locked. The Clerk take a tally.

The Clerk please announce the tally.

SPEAKER BALDUCCI:

HB7479 as amended by House "A" and Senate "A".

Total number voting	127
Necessary for passage	64
Those voting yea	127
Those voting nay	0
Those absent and not voting	24

SPEAKER BALDUCCI:

The bill as amended is passed.

CLERK:

Page 9, Calendar 673, HR28, RESOLUTION PROPOSING APPROVAL OF A MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF CONNECTICUT AND THE NEW ENGLAND HEALTH CARE EMPLOYEES UNION DISTRICT 1199, NATIONAL UNION OF HOSPITAL HEALTH CARE EMPLOYEES, AFL-CIO (P-1 and NP-6 UNITS). Favorable Report of the House Committee on Appropriations.

SPEAKER BALDUCCI:

Representative Adamo of the 116th.

REP. ADAMO: (116th)

Substitute HB7205 An Act Concerning the Connecticut Agricultural Experiment Station.

REFERRED TO: GOVERNMENT ADMINISTRATION & ELECTIONS

Public Health

Substitute HB7290 An Act Concerning Hospital Budget Review.

REFERRED TO: GOVERNMENT ADMINISTRATION & ELECTIONS

Environment

Substitute HB7294 An Act Concerning the Purchase by the State of Certain Fish.

REFERRED TO: GOVERNMENT ADMINISTRATION & ELECTIONS

Environment

Substitute HB7479 An Act Implementing the Recommendations of the Task Force on Indian Affairs

REFERRED TO: GOVERNMENT ADMINISTRATION & ELECTIONS

Environment

Substitute HB7332 An Act Concerning Authorization of Bonds for Environmental Protection Programs.

REFERRED TO: FINANCE, REVENUE & BONDING

Environment

Substitute HB7445 An Act Concerning Global Warming.

REFERRED TO: JUDICIARY

Government Administration & Elections

Substitute HB7479 An Act Implementing the Recommendations of the Task Force on Indian Affairs.

REFERRED TO: JUDICIARY

Planning & Development

HB5405 An Act Concerning Municipal Zoning Enforcement.

REFERRED TO: JUDICIARY

END SENATE AGENDA #2

THE CLERK:

Calendar Page 6, Calendar 170, File 241, Substitute SB850, AN ACT CONCERNING THE MEMBERSHIP OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE AND THE JOINT COMMITTEE ON LEGISLATIVE MANAGEMENT. Favorable Report of the Committee on LEGISLATIVE MANAGEMENT. The Clerk is in possession of one amendment.

THE CHAIR:

Senator O'Leary.

SENATOR O'LEARY:

Mr. President, we are going to PT that one. No, Mr. President, excuse me, change the reference on that to Passed Retaining.

THE CHAIR:

recorded in the affirmative.

THE CHAIR:

Record will so note. Senator Mustone.

SENATOR MUSTONE:

Yes, Mr. President. Also for Calendar #507, I'd like to be recorded in the affirmative, sir.

THE CHAIR:

Record will so note. Senator Daniels.

SENATOR DANIELS:

Mr. President, I was on the same plane. I'd like to, on #507, be recorded in the affirmative.

THE CHAIR:

Record will so note. Anybody else who missed the vote? I think Senator DiBella might have. Yes. Calendar #507, Senator DiBella.

SENATOR DIBELLA:

Thank you, Mr. President. On Calendar #507 I was out of the Chamber with legislative business. I wish to be recorded in the affirmative.

THE CHAIR:

Record will so note. We do have, do we have another agenda? You may proceed.

THE CLERK:

Calendar Page 3, Calendar #581, File #602. Substitute HB7479, AN ACT IMPLEMENTING THE

RECOMMENDATIONS OF THE TASK FORCE ON INDIAN AFFAIRS. As amended by House Amendment Schedule "A". Favorable Report of the Committee on APPROPRIATIONS. The Clerk is in possession of one amendment.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

Thank you, Mr. President. I believe we have one amendment.

THE CHAIR:

That is correct.

SENATOR SPELLMAN:

I move, first of all, acceptance of the Joint Committee's Favorable Report and passage of the bill, and I would move adoption of the amendment.

THE CHAIR:

Your adoption of the bill, is this in conjunction?

SENATOR SPELLMAN:

Yes, in concurrence with the House.

THE CHAIR:

With House "A"?

SENATOR SPELLMAN:

Yes.

THE CHAIR:

Clerk please call the amendment.

THE CLERK:

Senate Amendment Schedule "A", LCO9070, offered by Senator Spellman.

THE CHAIR:

Senator Spellman.

SENATOR SPELLMAN:

I move adoption of the bill, waive the reading, and ask leave to summarize.

THE CHAIR:

You're referring to the amendment?

SENATOR SPELLMAN:

I mean adoption of the amendment. I'm sorry.

THE CHAIR:

Thank you. Without objection, you may proceed.

SENATOR SPELLMAN:

This is an amendment which was requested by the Attorney General's Office. We were informed today that they are currently involved in litigation with Indian descendants over title to land which was historically part of tribal lands. The purpose of the amendment is to clarify that the state is recognizing these tribes for purposes of establishing administrative control over the lands which they currently own, or which are held in trust by the state, and establishes a legal mechanism for allowing these tribes to do so.

It does not, however, take the step which the original language did, which would be to recognize them under federal law, which would have consequences which would effect the pending litigation.

THE CHAIR:

Further remarks on the amendment. All those in favor of the amendment, signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed. The amendment is adopted.

Further amendments?

THE CLERK:

No further amendments.

THE CHAIR:

Now on the bill as amended. Senator Spellman.

SENATOR SPELLMAN:

Thank you, Mr. President. This bill is the result of a lot of hours of work by the task force on Indian affairs, and also a lot of work by the Environment Committee which continued to bring together some last moment disputes between particular tribes in the state. Specifically, what the bill does is to specify that five recognized tribes in the state of Connecticut, have certain powers in terms of . . . .

THE CHAIR:

Have order please.

You may proceed, Senator.

SENATOR SPELLMAN:

In terms of determining tribal membership and residency on the reservation, determining the tribal form of government, regulating trade and commerce on the reservation, making contracts, and choosing tribal leaders. The bill eliminates a requirement currently existing under state law, that requires at least one-eighth Indian blood to be considered Indian. Instead, the individual tribal membership is left to determination by the individual tribes.

The bill specifies that reservations must continue to be held in trust by the state of Connecticut, in perpetuity, to prevent their sale and their availability to Indians in the future. It specifies that the reservation land held in trust is not subject to local property taxation. That is in fact, the practice in regard to all existing towns, with the exception of one town, in regard to motor vehicle taxes. It establishes a native American heritage advisory council to evaluate and make recommendations on Indian heritage to the state archeologist.

And the bill requires that people who believe that

human burials, or skeletal remains are about to be disturbed or damaged, can notify the Chief Medical Examiner and the state archeologist, for purposes of examination. It provides a procedure for them to determine if there is, in fact, a significant archeological site which is about to be excavated, and provides provisions for protection of that site, or transfer of skeletal remains if that is required. It provides that the Connecticut Historical Commission, with concurrence of the state archeologist, may designate land it finds to be of a state or national archeological significance to be designated as a state archeological preserve.

That provision requires consent of any private land owner, and it requires that anyone who is doing excavation at an archeological site, must obtain a permit for that excavation, and provides certain procedures for obtaining that permit. The bill authorizes the Connecticut Historical Commission to expand its current responsibilities in terms of inventorying state land to include inventory procedures for Indian burial sites. The bill makes the presence of Indian sacred sites or archeological sites of state or national importance a factor in determining which lands DEP may purchase under the recreation and

national heritage trust program, and also establishes penalties for excavating, damaging, selling, desecrating articles which are part of an archeological or sacred site on state land or in an archeological preserve, except by permit of the Connecticut Historical Commission.

The bill, Mr. President, is the result of a lot of work by the task force on Indian affairs. It passed unanimously in Environment, unanimously in GAE, and unanimously in Judiciary. I don't have the designation downstairs, but it was unanimously downstairs, too. And I hope that all my colleagues will join me in supporting this bill.

THE CHAIR:

Further remarks. Senator Eads.

SENATOR EADS:

Thank you, Mr. President. I would like to join with Senator Spellman, thanking the task force, and Representative Kusnitz and Thompson, and also Senator Spellman for the work they have done on this bill. We have a reservation in my little town of Kent, and I think this will keep them very quiet, and that they will get what they have asked for. Thank you very much.

THE CHAIR:

Further remarks. Clerk, please make an announcement for an immediate roll call.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the Chamber.

THE CHAIR:

Question before the Chamber is a motion to adopt Calendar #581, Substitute HB7479. File #602, as amended by House Amendment Schedule "A" and Senate Amendment Schedule "A".

The machine is open, please record your vote.

Senator Larson, Senator Thomas Sullivan, Senator Hale, Senator Przybysz, Senator Casey. Senator Casey. Has everyone voted?

The machine is closed.

Clerk, please tally the vote.

The result of the vote:

36 Yea

0 Nay

The bill is adopted.

I do want to indulge in the Point of Personal Privilege, unless they've disappeared. My wife is here, along with Wanda Sagrin. Did they leave,

tcc ENVIRONMENT March 20, 1989
4:00 p.m.

PRESIDING CHAIRMEN: Senator Spellman
Representative Mushinsky

COMMITTEE MEMBERS PRESENT:

SENATORS: Atkin, Scarpetti

REPRESENTATIVES: Tiffany, Brown, Caruso, Casey, Collins, Fleming, Gambardella, Holbrook, Joyce, Knopp, Lavine, Luby, Mordasky, Piscopo, Samowitz, Savage, Smith, Stratton

SENATOR SPELLMAN: (Tape not running) HB7479

RAYMOND GEER: (tape not running) recommendations which the task force has made in its report to the legislature are (1) that the state should formally recognize the inherent self-governing rights of the five indigenous tribes, and (2) that the state should seek to define the special nature of its relationship with each of the indigenous tribes by pursing a written trust agreement with each willing tribe.

Recognition of the self-governing rights of indigenous tribes will establish the basis for a government-to-government relationship between the state and each of the five tribes. It will help to clarify what those self-governing rights are and will generally strengthen tribal governments so that each tribe will be able to govern more effective over their respective reservations.

The state has recognized for many years that it has a trust responsibility for each of the five indigenous tribes, but the special nature of that trust responsibility has never been clearly defined. The task force strongly recommends that the state and each indigenous tribe negotiate a written trust agreement which would clearly define the relationship between the two parties. The trust agreement could also be used as a vehicle to

solve many of the jurisdictional questions which are encountered when dealing with Indian affairs in a manner that would be satisfactory to all parties.

In summarizing the work of the task force on these two important issues, we feel that there needs to be a strong commitment from the state for a government-to-government relationship with each of the five indigenous tribes. Also the state should seek to help strengthen tribal governments by eliminating any road blocks which interfere with the tribes' inherent right of self-government.

The cultural and traditional values of Connecticut's indigenous people can only survive if we can help strengthen tribal governments so that they can develop strong tribal communities and meet the social and economic needs of their people. Thank you.

: The next two members of the task force are Kevin McBride and Mikki Aganstata who will discuss the heritage section of the bill.

REP. MUSHINSKY: At this point I'd like to announce that at 5:00 there will be a House Democratic Caucus on the tax package, so members of the audience, please don't be upset when half of the committee gets up and leaves. They must go vote on the tax package and we will have all the written testimony saved for them so they won't miss your testimony.

MIKKI AGANSTATA: Thank you. My name is Mikki Aganstata. I reside in Hartford.

REP. MUSHINSKY: Can you speak up please?

MIKKI AGANSTATA: And I have resided there for 11 years. In fact 11 years ago I came to Connecticut to become the Indian Affairs Coordinator for the Department of Environmental Protection. In fact, I recognize a number of faces here on the committee from that period of years.

During that period of years, a number of significant pieces of legislation was passed beginning right here with this committee. One notable piece was the protection to Indian burials

on state lands. I mention that because it was a first and basically the only protection to Indian burials currently in Connecticut.

REP. MUSHINSKY: Excuse me, Mikki, I have to interrupt you for a second. The Clerk informs me that because the task force members are not signed up, we don't have your correct name and the spelling of your name on the sheets for the record, so would you give us your full name and spell your name if it's complicated and each member of the task force that comes up when you begin speaking will you give us your full name and spell the name if it's complicated for us. Thank you.

MIKKI AGANSTATA: Would you like for me to spell my name?

REP. MUSHINSKY: We just need your name for the tape that they're preparing and then you can resume your testimony.

MIKKI AGANSTATA: Okay, my name is Mikki Aganstata.

REP. MUSHINSKY: Can you spell your last name for us?

MIKKI AGANSTATA: A-G-A-N-S-T-A-T-A.

REP. MUSHINSKY: Thank you.

MIKKI AGANSTATA: To continue, following my tenure as Indian Affairs Coordinator, I have continued to be involved in Indian Affairs and subsequently and currently was appointed to the task force.

During the 11 years I've been here I've seen the economic and political environments change substantially, but the problems that are inherent in Connecticut's state and tribal relations have remained unchanged.

SA8713 establishing the task force was proposed as a first step in designing solutions to these longstanding problems by the tribes, knowledgeable individuals, administrative agencies and members of the legislature. You have received the results of our first combined effort, which of course, includes a request for an additional year to complete our study and our efforts.

In the interest of brevity, I would like to characterize the portion of the material you have before you as the Heritage Act to say that this act strives to recognize the public trust in Connecticut's past and present heritage and to enhance such trust to gain sensitivity to Native American cultures and to increase the cooperation of various state agencies to manage and preserve this trust for present and future generations.

This is important because Indian history is a major portion of Connecticut's heritage and that history is contained primarily in the archeological record. That fact does not seem to be well known among our general public. The difficulty with the history being contained in the archeological record is quite simply that more than 100 archeological sites are destroyed for various reasons annually and when you multiply that effect for 200 to 300 years, you're talking about a substantial portion of Connecticut Indian heritage and history, which of course, is Connecticut's heritage and history.

The task force is charged with and has become the advocate for the protection and preservation of archeological resources that are so vital to the ethno-history of Connecticut Indians and obviously to all the citizens of Connecticut. The task force seeks to address the longstanding erosion of the Connecticut Indian heritage and to prevent the continuing destruction of the record of that heritage. I urge you, each member of the committee, to protect and preserve this irreplaceable heritage in this public trust for our present and future generations. Thank you.

KEVIN MCBRIDE: Representative Mushinsky and Members of the Environmental Committee, my name is Kevin McBride, M-c-B-R-I-D-E. I am an Assistant Professor of Anthropology at the University of Connecticut and serve on the Governor's Task Force on Indian Affairs as the Governor's appointee for archaeology. One of the mandates of the task force was to study and make recommendations concerning the state's responsibilities for Native American sites and remains. I would like to address my

comments to those portions of the bill which deal specifically with the preservation of Native American cultural heritage.

Connecticut has a rich and varied cultural heritage, reflecting contributions by a number of different cultural traditions and ethnic groups. We see reminders of this heritage all over the state, in churches, rural farming communities, 18th century dwellings and 19th century industrial sites. These structures, however, reflect only a relatively small portion of Connecticut's heritage, the last 350 years of Euro-American settlement and industrialization. Of the 28,000 sites in the state listed in the state or National Register of Historic Places, only 10 are Native American sites.

The National and State Registers are a direct reflection of the kinds of sites and places we consider historically significant. The problem lies not only in our perception of what is historically significant, but also in the extremely low visibility of sites associated with Native American culture and history. Connecticut has been continuously occupied by Indians for over 10,000 years. The complexity and richness of this occupation is reflected in the archeological record, yet archeological sites and places associated with this occupation are disappearing at an alarming rate, over 200 a year. The purpose of this bill is in part is to identify and protect an important part of Connecticut's shared cultural heritage.

I am aware that there are some objections to this bill, in particular by some state agencies. However, in the last few weeks members of the task force have met with representatives from these agencies in an effort to address their concerns, which we consider valid and important. I believe that all the parties concur on the intent of the legislation and that these legitimate concerns can be incorporated into the bill within the next few weeks without compromising the original intent of the bill.

In fact, the state agency comments will assist in

clarifying and strengthening the bill and we believe making it a much improved product. Thank you.

SEN. SPELLMAN: Representative Mushinsky has a question. Yes, Kevin, are you able to work with DOT so they will withdraw their opposition for the bill?

KEVIN MCBRIDE: I believe we can sit down and talk about their concerns. I've heard them and I don't think they're important, but I think they can be easily addressed without changing the intent.

REP. MUSHINSKY: Okay, that will obviously help the bill if there are -- you know, they're an influential group and if they're going to dog this bill, it could be a problem, so if we can, if we can take care of their concerns early, we could --.

KEVIN MCBRIDE: I'm very confident that we can.

REP. MUSHINSKY: Okay.

KEVIN MCBRIDE: Thank you.

TRUDY RICHMOND: Good afternoon. My name is Trudy Lamb Richmond and I'm one of the Governor's appointees.

REP. MUSHINSKY: Trudy, could you spell your last name for the tape?

TRUDY RICHMOND: R-I-C-H-M-O-N-D. And I'm one of the Governor's appointees to the legislative Task Force on Indian Affairs. I'm also a Scattaquill and I live on the Scattaquill Reservation. I served on the Indian Affairs Council for over 10 years and I'm also a Director of Education at the American Indian Archeological Institute.

It is no simple task to always understand another culture's values and beliefs and it may appear to some a formidable task to pass laws to protect these values and beliefs, but that's what we are asking of this committee and of the legislators.

As indigenous native people, we are looking and exercise our sovereign and jurisdictional powers as well as our sacred sites and skeletal remains.

This entire bill should actually be titled the Native American Heritage and Preservation Act in recognition of all our inaliable rights. The task force, after a year of meetings, in recognizing the tribes' need to exercise all of these rights, is making these recommendations, that the State of Connecticut recognize the indigenous tribes as separate, self-governing entities. That the Governor pursue a trust agreement with each willing indigenous tribe. That the state recognize the need for the Native American Heritage and Archeological Resource Preservation Act.

What we're asking in terms of the skeletal remarks in that act is more than preserving just object and skeletal remains. We're asking to preserve the culture that is under the ground as well as on top of the ground.

And lastly, we're asking that the task force receive an extension in order to complete its mandate. It was stipulated that we would begin September of 1987. We did not begin functioning until February 1988, as all the Governor's appointments were not completed until then. An extension is needed to review a more extensive number of important issues, such as the roles, the function and the structure of the Indian Affairs Council, once the preservation of reservation lands has been understood.

And in addition, excuse me one minute, some of the other issues we're asking for is state endorsement in a system to tribes seeking federal recognition, the preservation of reservation land for the tribes in light of the escheat provisions which is presently in Section 47-64. Thank you.

REP. MUSHINSKY: What tribe are you from, Representative?

REP. NORTON: None particular. My name is Andrew Norton, N-O-R-T-O-N. I represent (inaudible) in Montville and I'm a member of the Indian Affairs Task Force and one of the reasons I sought

membership on the task force is not only do the Golden Hill Paugussett who are, I guess I'll say headquartered, in Trumbull have a reservation in Colchester of approximately 100 acres.

Montville is generally associated as being the home for many of the Mohegan tribe and also certainly houses the Tanequissan Museum on Route 32 there. So in any case, it's an issue that is pertinent to my area and something that I'm interest in and I think that task force has done a lot.

As has been pointed out, we did get a late start and I think we did accomplish more than we actually could have seriously hoped we could have accomplished by this session and in specific regard, I think we've paid some good attention to what might be the state's role with tribes and I think we made a good statement in recognizing the self-governance of tribes and the possibilities there.

I think the trust agreement is a particularly apt vehicle for pursuing that. One of the things that was evidenced in the task force was that while there are situations that ascribe to all of the tribes and difficulties that they all encounter, there are those difficulties which they encounter in the particular. There are problems and situations that, as said, the Scattoquills that don't affect the Mohegans and it goes on and I think the trust agreement allows us to particularize the relationship between each tribe in the state, which obviously, a statute couldn't do, which a statute couldn't sort of delve into what each tribe hopes to see is its role in self-governance and hopes to see it's the state's role in self-governance. The trust agreement should do that.

We should be able to allow ourselves to, as I said, particularize the situation and I think the archeological section of the bill takes another step further in not just looking to the present and the future of Native American life in the state, but looking to preserve the past.

I've always been someone who's been very devoted to the past, and I'll have to be perfectly honest with you, throughout my life it's always been devoted to what our Yankee ancestors did and didn't do and the stone walls and the houses that they left and that's always been my -- I guess, self-centered devotion, is, you know, counting the width of clapboarding on the lower stories of 1780 houses or something and I think this is something that gives breadth to not only the endeavor of preserving our heritage, but it gives breadth to our understanding of what it means to be, you know, a human being and what it means to have lived in this state before 1632 and the Windsor founding and I think that's important to recognize our antecedents and our the people we -- I shouldn't say, we could say we bought the house from, but I guess took the house from, and I think that recognition not only extends dignity to the Native Americans in the state, but it extends dignity to ourselves in that recognition, and therefore, I'm sure there's a sentence in there and I'm sure there's a paragraph in there that everyone you might have a problem with, but I think in general the spirit of the bill is a good spirit and the committee's approval of that will be a good thing to do and thank you very much.

REP. MUSHINSKY: Are you on the Judiciary Committee?

REP. NORTON: Why? Should I get on that committee?

REP. MUSHINSKY: No, I'm not even sure, if LCO is here if it has to go there.

REP. NORTON: I think there might be penalties in the section, but I can't remember if they're civil or criminal and you'll have to forgive me for not recalling that. Do civil penalties have to go to Judiciary? Do they, I can't remember.

SEN. SPELLMAN: We'll have to talk to LCO about it. My guess is that if we're talking about trust agreements entered into with the State of Connecticut, that's a contractural agreement. It probably does have to go to Judiciary, but we'll see.

REP. NORTON: And I would also -- in pointing out the archeological section, one of the words that I certainly expressed in the council and I guess I might have been a minority (inaudible), but I want to say that I thought the group, as a whole, paid a lot of deference and maybe even excessive deference to the landowner in such a situation and paid deference to the fact that people have economic realities they have to face and allowed for that.

And I understand the Department of Transportation's concerns, but I think it's just those types of concerns that if implemented provide us things like Dinosaur State Park and will in the future provide us with preservation of other historic and valuable assets.

MOONFACE BEAR: My name is Moonface Bear. I'm a War Chief of the Golden Hill Paugussett Nation. My land base where I live is in Colchester, and as they said, my headquarters, my nation's capitol is at Golden Hill. I'd like to give honor to my father in the back there. He has the purple shirt on. He has been a Chief of my nation and for the last 15, 20 years has put his life on the line and his put his family on the line. He has put his financial situations on the line for his people.

That's the kind of thing that I kind of want to bring here today, the realities of our life, the Native American people. We're different in a lot of ways than you. We don't really want to melt in that melting pot of America. We don't see why we should.

The land that we live on, our homeland, Quanatucket, Tenapasogmano, Turtle Island, was given to us by the Creator a long time ago. He this away to be as human beings and for some of us today we have continued in that way and many times it has been a sacrifice for us. It has been a sacrifice, the sufferings, like in any movement and in any change in any part of the world, in any situation there is cost. It has cost us a lot to come to this table, to come to this place, this table, this bill.

I, myself, I'm a (inaudible) member of the American Indian movement. I've been that way since I was 13. My tour of duty has been in the trenches of America fighting oppression, genocide that this country has placed upon my people. Many things that we're asking here today comes because of our fighting, comes because of our suffering, so I'm not here today as a special interest human being. I'm here today as a Quanatucket Aboriginal stating that many of the purposes in this bill is a part of our inherent right as Native American people, as aboriginal peoples of this island.

I'm here today to say that there's a lot more work that needs to be continued, a lot more defining, a lot more searching out and to understanding the foundations between our two governments and understand that for a lot of us Native American people we have never, ever left the thought that we were never sovereign, no matter what that cost has been and the cost has been a lot.

So I'm here today to talk to you, my brothers and sisters, the occupiers of my homeland, I'm here to say that justice that my people seek has come real hard. Your laws, your Supreme Court, your federal laws, they have upheld these realities. So we didn't come together and said, let's decide to put a nice little bill together to help us out, but rather that it is time to settle our debts. You owe us. Your grandfathers, they owed us and they never paid it.

So today we're here to say look favorable on these pieces of paper. Get yourself educated about your land, about your homeland, about the people that were here before and understand the situations and the consequences that we have to go through today and tomorrow and for our future. Are there any questions?

REP. MUSHINSKY: Do you like the bill?

MOONFACE BEAR: Well, let me say that there are some refinements that we are going to be going over and clarifications, but only half of the work has been done. The other part is it is mandated that the task force continue because there's some very

important ground, you know, so that our contractual agreement is between nations, your nation and my nation, can be more solidified in reality. Is that it?

SEN. SPELLMAN: Representative Tiffany.

REP. TIFFANY: An earlier speaker wanted us to put on hold until it was reviewed by an expert Indian lawyer. Does the majority of the task force members support that position or do you think that it's been reviewed enough?

MOONFACE BEAR: Well, we look at it like this. I am a representative. My father was a representative. Some of the people that have spoke and are going to speak are representatives of other communities, Indian communities. We basically see nothing wrong with what we have asked for, for we have asked it. We have defined it to the task for what we seek. We put these words here. We put these recommendations here. We educated the non-Indian on that task force on the realities of our government and the realities of our law, and they in turn, after searching, after seeking, after listening, they in turn agreed with us and so we worked and put this here together and I think that speaks for itself.

I think that the majority that you will hear is not opposition to the bill or to put the bill on hold, but for an acceptance of it as long as you're also understanding, though, you cannot go with one part of it, accepting the recommendation, without not going to also continue the work of the task force and then once the work of the task force be completed then there's going to be a lot less opposition and also at the same time that will give us time that if the expert of Indian law comes in, you know, we will have plenty of time to deal with that.

So we are hoping, there's nothing that is shut. All our people can come and speak and seek what they desire, so we're all open to that, but we do wish for it to go on.

SEN. SPELLMAN: Thank you.

MOONFACE BEAR: No other questions, I assume.

STILSON SANDS: Good afternoon. My name is Stilson Sands. I'm Connecticut Mohegan Representative for the Mohegan Tribe to the Indian Task Force.

I hereby accept the bill that kept Section 20-2(b)(5) with the change to exclude the Mohegan Tribe from this particular sovereignty power. That section is based on taxes. Any questions to this?

REP. MUSHINSKY: Yeah. I don't understand your point. You would like the Mohegans struck from Section 20 for the time being?

STILSON SANDS: No.

REP. MUSHINSKY: For this year?

STILSON SANDS: No. The Mohegan people want that - they are against the imposed. Have you got part of the bill?

REP. MUSHINSKY: Yeah. I have the bill right in front of me. I'm trying to figure out . . .

STILSON SANDS: Okay. In the part where it says "impose taxes", down at the bottom.

REP. MUSHINSKY: Right.

STILSON SANDS: Section 20.

REP. MUSHINSKY: All right. So you would like the power to do everything <u>but</u> . . .

STILSON SANDS: Yeah. Impose taxes on the . . .

REP. MUSHINSKY: . . .But impose taxes. And that's just your tribe.

STILSON SANDS: Yeah.

REP. MUSHINSKY: The other tribes don't agree with you on taking that out?

STILSON SANDS: I think Paugussett does agree also.

: That's correct.

REP. MUSHINSKY: Okay. So the Golden Hill Pauguseett and the Mohegans would probably need a separate section of the bill that gives them those powers, except for the taxation.

STILSON SANDS: With a clause in it.

REP. MUSHINSKY: Right?

STILSON SANDS: Yeah.

REP. MUSHINSKY: Okay.

STILSON SANDS: That's the (inaudible) question.

SEN. SPELLMAN: Any questions? Thank you.

REP. MUSHINSKY: (Aside) We're going to have to write a separate - if that's what they want, we're going to have to write a separate section for that.

SEN. SPELLMAN: (Aside) Well, just an exemption . . .

PATRICIA BENEDICT: Good afternoon. My name is Patricia Benedict. I was appointed by the Governor to the Indian Affairs Task Force as an Indian resident of this state. I happen to also be the Executive Director of American Indians for Development and I've worked with Connecticut tribes and Indian communities since 1975.

The passage of HB7479, will afford the state a unique opportunity to being compensating for the injustices that have been inflicted upon the Connecticut Indians. Up to now, Connecticut tribes and their governments have received little or no acknowledgement in protection of their inherent sovereign rights and historical contributions.

This bill is only the beginning of the work in which we need to accomplish. It is imperative that our request for extension be granted so that we may complete the tasks we were mandated to do. Overall this bill was designed in a traditional

manner in that it serves to protect - protect the rights of the past, present, and future Connecticut Indians.

I'm in full support of HB7479 and I ask that all of you search your hearts and your minds and also show full support for this bill as recommended by the task force members. Thank you.

JOHN THOMPSON: Thank you, ah - we had a number of technical advisers and one of those was Dave Luft and I don't see the other ones here today, except Julia Bradley who would like to comment briefly from the legal advice that she had given us throughout the long period of our task force. So - Julia. And that will be it. Thanks

JULIA BRADLEY: Ah - Julia Bradley - B-R-A-D-L-E-Y. I'm an attorney at Connecticut Legal - ah - Connecticut Legal Services and a part of my job is called the Indian Law Project. We get some federal funding for dealing with Indian Law. I was retained by the following people to work with the task force, and many of you have - many of these you have heard speak. Chief Big Eagle, Moonface Bear, Ray Geer, Patty Benedict, Trudie Richmond, Mikki Aganstata, and Sherman Paul and Richard Harris.

I will simply say that I support the bill as do my clients; urge passage this year and certainly urge the extension for the task force to finish its work.

I was also asked by Chairman Thompson to draft amendments to the bill that were discussed by the task force at their March 16th meeting and I have presented that in written testimony. A couple of things are simply typos, like "membership" where it appears "memberships".

One you heard from Stilson Sands. It's in Section 20(b)(5), THE POWER TO IMPOSE TAXES. Both the Mohegan Tribe and the Golden Hill Paugussett Tribe wish to be excepted from that. And so it could be changed to read ". . . except for the Golden Hill Paugussett Tribe and the Mohegan Tribe, impose taxes on residents of reservations . . ."

There are a couple of places where material is to be submitted, eventually, to the Secretary of State. What the task force wished to do was have it submitted to the Governor for forwarding to the Secretary of State. And you will see this in the written stuff.

The second really important amendment involves the resolution of disputes over membership or leadership. That came out in the draft as "Each party and the Governor will choose one of the three people on the council" that's going to decide. They didn't mean to do that. What they want is, "Each party will choose a member then both parties will choose the third". If they can't agree, the Governor will appoint the third. And I think that's a critical amendment to Section 22 and 23.

Ah - are there any questions on those?

SEN. SPELLMAN: Representative Lavine.

REP. LAVINE: Ah (microphone not on) - look at Line 641 (inaudible) replacing most of 27(a), it says "Each Tribe shall determine who may live on reservation lands. Residents may be removed for just cause determined in accordance with tribal guidelines."

JULIA BRADLEY: Un-huh.

REP. LAVINE: (microphone not on) Just a question first - is there a process by which tribes - each tribe determines who is there? Is there a standard process in tribes . . .

JULIA BRADLEY: I would think the most typical process - each tribe has a tribal council - and someone who wanted to build a house on the reservation or move in to a house, would apply to the tribal council. "I want to live on the reservation." And then the council would decide.

But in other cases, it may be different. I do not know to what extent each tribe has that as a written policy. It may or may not be part of tribal custom.

The problem has been that the Indian Affairs Council was given some authority to help decide this and the main point of this is to take away that authority. Give it back to the tribe.

I would think after this bill is passed that each tribe would want to set forth some guidelines.

CHIEF BIG EAGLE: May I?

JULIA BRADLEY: Sure.

CHIEF BIG EAGLE: My name is Chief Big Eagle, traditional Chief of the Golden Hill Tribe. On the Golden Hill Reservation, any person of lineal descent of one of the five reservations set aside are members of the tribe. They have the right to live upon the land. The way that is written, means that if - those who have tribal councils are in power today - when the next council comes in and they don't like the people on the council before that - then they can tell them to move for just cause.

There has to be in that bill - all people residing on reservations as of the date the task force has cited shall remain - because that's the way it is on Golden Hill - a traditional reservation. For just cause you can be banished from a tribe for trying to sell it down the river. But for just cause - what is "just cause"? When the Welfare Department had it, their "just cause" was if you didn't make friends with the neighbor next door, you could be removed. You drop a gum wrapper, you could be removed.

No that's got to be removed from there.

REP. LAVINE: That answers the second question very well. The first question that I - that I'm still not sure of "Each tribe will determine who may live on the reservation" - you're saying that is determined by the . . .

CHIEF BIG EAGLE: According to the Golden Hill people, we are traditional. We do not go by the blood quota, I mean that's for race horses and pigs. And I'm not a race horse and I'm not a pig.

If you are a legal descendant of a person from one of the five reservations set aside, and you have documentation for it, you are accepted. And you have the right to live on the reservation, the same as anybody else, whether they like you or don't like you.

REP. LAVINE: It might be helpful to have that in in some way.

CHIEF BIG EAGLE: Thank you.

REP. LAVINE: In the statute.

JULIA BRADLEY: Ah -

CHIEF BIG EAGLE: I wish you would put that in there, sir.

JULIA BRADLEY: The which - the people who are there now remaining?

CHIEF BIG EAGLE: The people that are on the reservation the day the task force started, shall remain - remain.

JULIA BRADLEY: I see.

CHIEF BIG EAGLE: Because the way the bill is wrote up, if I get in power tomorrow and I don't like you, I can find just cause to have you removed.

: (inaudible)

CHIEF BIG EAGLE: You may park on the grass, I don't know. (laughter) So that has to be put in there. That the people that are living on the reservation as of the date this task force started, remain on the reservation.

REP. MUSHINSKY: Is that only for your tribe? Or is that for all five.

: For all of them.

CHIEF BIG EAGLE: It should be for all five.

REP. MUSHINSKY: Do all five agree?

CHIEF BIG EAGLE: I don't know.

REP. MUSHINSKY: I mean did you just . . .

CHIEF BIG EAGLE: You see they are democratic - they're democratic - we are traditional.

REP. MUSHINSKY: Okay. We're going to have to find out because if we rewrite the bill I want to make sure everyone is - you know, everyone on the task force is happy with the change. So if you would make sure that they all agree, would you, before we amend it.

CHIEF BIG EAGLE: Well, that's going to be a hard job, because a lot of them go status quo - they want the one they (inaudible). They don't know that in the end they're being wiped out. We go by lineal descendant.

REP. MUSHINSKY: Well, we could write a separate section for your tribe. But we just need to know ahead of time whether to include you all at the same rule or not. So if you will just . . .

REP. TIFFANY: Those are two different things, Mary. He's talking about people that are there - whether they can stay. There's a difference in whose - in who belongs to the tribe. If it's lineal or percentage of the blood.

REP. MUSHINSKY: Yeah, but the removal for just cause on Line 642.

CHIEF BIG EAGLE: That puts you right back to the Welfare Department. You drop a gum wrapper or you - as the bill stated you had to make friends with the neighbor next door. If the neighbor don't like you and you don't like the neighbor, that's just cause for you to be removed.

REP. MUSHINSKY: Sir, I guess what I'm trying to find out is, are you objecting to the language that says "residents may be removed for just cause determined in accordance with tribal guidelines"? Is that what you object to?

JULIA BRADLEY: Only for people who already live there now. I think - if we're talking with respect to somebody who after today would move on to a reservation. Then that would apply.

CHIEF BIG EAGLE: See - what is the "just cause" that you are going to use for removing people? Some people want you removed if you door locks.

REP. MUSHINSKY: Okay. But is this agreed to by all five tribes or is this just a condition of Golden Hill?

CHIEF BIG EAGLE: Well, if the five tribes do not wish it, then I wish you would make an exception for Golden Hill.

JULIA BRADLEY: My sense of it is probably that's a question the task force needs to discuss with them. There may be agreement, but I'm not positive.

REP. MUSHINSKY: Okay. We need to know before we send the bill out, so can you check for us?

SEN. SPELLMAN: Okay.

CHIEF BIG EAGLE: Any other questions?

SEN. SPELLMAN: No.

JOHN THOMPSON: Thank you very much for your indulgence.

SEN. SPELLMAN: Okay.

JOHN THOMPSON: It has been a (inaudible)

SEN. SPELLMAN: Any further questions from the committee for Mr. Thompson or any of the members of the task force.

: (inaudible)

SEN. SPELLMAN: Well, we have a whole - the procedure here with this hearing is we have a sign up list; we'll go through the sign up list, if you aren't on the sign up list when we go all the way through I'll say, "Is there anybody else that wants to

speak?" So anybody who wants to be heard will get a chance. But just for some order, I'd like to proceed in terms of what we've got here.

Any questions for the members of the task force?

: Yeah - (inaudible)

SEN. SPELLMAN: That's questions from the committee. If you wish to testify later you're welcome to.

: I'm a member of the task force.

SEN. SPELLMAN: Well, what we're having is a public hearing for the environment committee and if we have questions for the task force - did you have further testimony from the task force?

: In regards to the residency.

SEN. SPELLMAN: Why don't you come on up here and identify yourself.

PAULETTE CRONE: Paulette Crone, Schaghticoke, CIEC. I just want to make clear that this is one of the main reasons in regards to the residency issue like (inaudible) or" just cause" - on determining what "just cause" is - is one of the reasons of writing up an Indian Housing Authority bill, which would govern just like any other town has with charters or projects and buildings as to what you can have or what you can't have. Or however the tribe decides to have this.

Each tribe, it's important to realize that each tribe does have separate needs and availabilities. And this is where the wording is going to be so technical. Because one wording that may be put into legislation will not apply to all the tribes, all right. And there is a difference on what each tribe needs and what each tribe has the availability to do.

That's why the wording is very crucial. And it's something that, you know, to just pass it because it's an assumption is going to hurt everybody. Not only Indians, but it will hurt the state of Connecticut in a lot of ways too.

REP. MUSHINSKY: Okay. We'll word it the way you want. We're in confusion here in that the chief who just spoke wants a change in one of the lines and the other tribes may not agree with his change. So that's what we have to make sure, absolutely sure that we get this right.

PAULETTE CRONE: Well this is the purpose of why we have obtained an attorney that's an expert in Indian Law. Because there is no one in the state of Connecticut that is an expert in Indian Law and it is needed, to make sure that each tribe does maintain its rights and its sovereignty and its needs. Thank you. That's all. Any questions.

SEN. SPELLMAN: Questions? Thank you. Tom Turick.

TOM TURICK: Senator Spellman, Representative Mushinsky, members of the environment committee. I'm Tom Turick, Connecticut Business and Industry Association.

I'm here on behalf of CBIA to oppose HB7471. CBIA respects the right of the state to more clearly define the procedures before a judge in the granting of environmental administrative warrants. And I heard the Honorable Attorney General speak to the point that the Attorney General's office wanted to go from the broad language of Section 1 to more specific language in Section 2.

However, we disagree that the language in Section 2 is more specific. In fact, we think it's more broader than that which exists in Section 1.

The problem with the language in Section 2 is that it puts a test before a judge who would decide whether to grant such a warrant. And, if there is to be such a test before the judge, we think it should be a higher standard type - type test than what is offered here in Section 2.

For instance, the affidavit should be of a person not only having knowledge of alleged - of facts alleged, but of violations alleged.

a mechanism that this committee can enact that would allow something like that to be prevented, we endorse it.

And it's ironic, I will add lastly, that in 1982 the DEP was prepared to issue regulations governing this type of operation and it never came forth and had that been done at that time we would not be here today, and as I said from the beginning, I strongly urge you to support this legislation.

SEN. SPELLMAN: Thank you. Questions from the committee.

TOM HOMAN: Thank you.

SEN. SPELLMAN: Helen LeGault to be followed by Agnes Cunha.

RUTH BASSETTI: Good evening. My name is Ruth Bassetti. Helen LeGault wants me very much to take her place right now. Thank you. I'm from the Pawcatuck Eastern Pequots of Connecticut. We're state recognized. We come from North Stonington. I am their CIAC travel representative at this time.

The Scattaquill tribe has asked me to make it known that in regards to taxation in HB7479, until their attorney advises or drafts expert directions, they remain unsettled on their decisions. We, the Pawkatuck Eastern Pequots agree and are seeking the same guidance, and therefore, do not want taxation considered for this legislation. Thank you very much.

REP. MUSHINSKY: Please, could you spell your last name for the transcript?

RUTH BASSETTI: Yes, Ma'am. B-A-S-S-E-T-T-I.

SEN. SPELLMAN: A question please from Representative Tiffany.

REP. TIFFANY: Well, for your or perhaps one of the other persons here to testify. I'd be curious as to the timetable that this legal expert will have in reviewing your -- the bills.

RUTH BASSETTI: Would you like --.

REP. TIFFANY: I'm just curious as to when you could report back to the Environment Committee whether or not you're in support of -- what's his timetable for review in the bill -- is it weeks, months, years?

: You're talking the entire state statue and the (inaudible) of data, we're talking here, but it would be (inaudible, mic not on)

REP. MUSHINSKY: Yes, please speak to the mike. We're not picking it up on the tape and give your name also for the record.

PAULETTE CRONE: Paulette Crone, Scattaquill Indian. In reference to your question, Representative Tiffany--

(cass 2) (cass 1 and 2 don't connect, small gap) --it would be done according to the emergencies and how they are detected, as far as the major reason of this whole operation and the Indian Task Force was because of problems that Indians are confronted with today: assaults, vandalism, intrusion of non-Indians, as to who can govern, who can have what say. State Police are very unclear in this.

And that is the intent that the Indian Affairs felt was going to be resolved with the Task Force, which it didn't get into. And that is why we have had to seek an attorney. American Native Fund is going to be giving us this grant, and we will work it accordingly, as to how we need it, whichever priorities we have to be faced with first, which would be state responsibilities to the Indians, which all your Indians throughout the United States are going through, all right? It is not just Connecticut. Massachusetts just went through it.

So, if we need something specific that is, you know, you want to put a three month timetable on or a six month timetable, we do have the availability to have to get it in that time.

SEN. SPELLMAN: Thank you, Paula.

REP. TIFFANY: HB7479 is what is before us, not some of these other things that you-- Those are going to be addressed by the Task Force, I guess, in a later bill, but I am not clear whether you are asking the Committee to hold up HB7479 or not.

PAULETTE CRONE: Yes, we are.

: Yes, sir.

PAULETTE CRONE: Number one is, one of the major reasons, all Indians in all the records that were documented and provided in the hearings for the Indian Task Force-- Indigenous Indians want to be treated separately. It is a state trust relationship with the state and the Indians that are indigenous to the state. And, that is something that is being forced on us with that bill, to accept Native American as all people throughout the United States that are accepted as tribal membership.

We want to maintain some type of a discretion on using membership and Indian, all right? That bill is saying that anyone that is accepted as a member in a tribe, well, that is part of sovereignty. They have the right to determine who is a member. However, you have got to have a line somewhere that is going to say who is an Indian, all right? Like any other thing, if you are an Orthodox Jewish versus general population, you know, there is a discrepancy in certain cultures and traditions that you adhere to and want to pursue. We don't want to open it all up. That is strictly a state responsibility to the indigenous tribes, not to all Native Americans, per se. And, that is how every other state, practically 50 of the states are all in the same type of a reform and law.

If we go into any other state, we have no separate laws or recognition because we are there. We chose the assimilation to another state. Our ancestors stayed here and fostered the land, to maintain that land and have it preserved. We feel that that responsibility should stay this way.

REP. MUSHINSKY: So you want a separation between Connecticut indigenous and U.S. indigenous.

PAULETTE CRONE: It always has been. The responsibility under DEP is strictly a state trust responsibility. And that has to do with the indigenous Indians and the land that is held in trust with them.

REP. MUSHINSKY: As I remember, this is a three or four year old dispute in front of this Committee. I mean, this was the same argument we heard years ago, and I am wondering: will you ever get it resolved? I mean, should-- This may hold up the bill forever.

PAULETTE CRONE: If the people had stayed out of the way of Indians making these determinations, yes, we would have it resolved. It's the laws that are written today that are stopping us, because of different interpretations. And, that's where the whole basis is coming in, and that is why we feel that an expert in this type of law will clarify this, and there won't have to be-- Going back into the history? Yes, we have been before many times, and it has always been the Great White Father. Well, those days we want eliminated. Those days are all gone, you know. They are past now.

We want the self-governing right. You have to serve up tribal criminal codes. Those that want, right now, you don't have a reservation able to enforce, because you don't have the population. You don't have the problems that the western Indians are facing. All right? But, in time, your people are going to be going back, you know. Once your land litigation has come out, you are going to have all of these people coming out of the walls, all right. You talk to almost everybody today, over half of your population says, "Well, I am Indian," or "My ancestor was Indian", that are all going to be eligible to apply for any type of state benefit that would be applicable for the Indians, which is nothing. But, who knows? In ten years, where the status will be?

SEN. SPELLMAN: Representative Caruso.

REP. CARUSO: Thank you, Senator. Let me see if I

understand what you have said. You are looking to set up a separate set of laws for the Indian, Native American population, is that correct?

PAULETTE CRONE: Indians have this right to govern their own.

REP. CARUSO: Right, that is the treaty--

PAULETTE CRONE: Indian country (inaudible - both speaking at the same time)

REP. CARUSO: The treaty power, because the Constitution--

PAULETTE CRONE: It was there before your (inaudible - both speaking at the same time)

REP. CARUSO: --which recognized them as a sovereign power. Now, it is my understanding that, in different parts of the country, the reservation is governed by that law.

PAULETTE CRONE: Right.

REP. CARUSO: In conjunction with the federal treaty power.

PAULETTE CRONE: Right.

REP. CARUSO: Now, there are very few reservations in Connecticut.

PAULETTE CRONE: Five.

REP. CARUSO: Five, and are you looking for laws which would apply just on the reservations?

PAULETTE CRONE: Strictly within the contents of the reservation, yes.

REP. CARUSO: Now,-- okay, so it would just be strictly geographical, and who would enforce these laws?

PAULETTE CRONE: That is the problem that you are confronted with now. You have that public law 280, which some of the states have drafted in. Others, which is the mainstream that is going right now, is

tribal criminal code, which is the book about this thick, and it's-- It does relate with state laws or town laws. Some of them may be (inaudible) such as zoning. Some tribes may not follow that procedure for zoning or a perc test or whatever is mandatory within that town.

REP. CARUSO: What is the size of the largest reservation in Connecticut?

PAULETTE CRONE: Massantucket is now because of their land.

REP. CARUSO: Is that the 106 acres?

PAULETTE CRONE: No, that is-- With what they have bought, yes. Scattaquill actually was and had been the largest. It was 400 plus 1,200 in litigation.

REP. CARUSO: All right. Then,--

PAULETTE CRONE: But also too, another factor to, that I feel is really important is that all tribes have put in seeking federal recognition. One of the tribes has maintained which is Massantucket. Therefore, these laws that are going in now may only be subject to tribes for one, maybe two years at the most, all right? Because then federal law would take over.

REP. CARUSO: If we assume that you have the sovereign power and all, everything else, now what difference is there between using Connecticut law as it stands today? In other words, what are you looking for, either in addition to or less than what we have today? Or, is it just the sovereignty issue?

PAULETTE CRONE: Well, like I said, each tribe has different needs. As far as Scattaquill, we have gone by majority of state rules, state laws. We have sought every way up with state laws. But, only to find out that the state does not have the jurisdiction or it is a questionable jurisdiction. We want that defined, all right? Does the tribe have the right to enforce, because the State Police don't, so who does? You only have one FBI agent to do all five reservations, and we have never seen him out on our reservation.

REP. CARUSO: I have never seen him at my house either.

PAULETTE CRONE: And another thing, Representative Caruso, is one thing we have learned a long time ago is: don't assume.

REP. CARUSO: Thank you.

PAULETTE CRONE: I won't spell that one out.

REP. MUSHINSKY: Thank you. Next speaker is Agnes Cunha and then Mitch Cooperman.

AGNES CUNHA: My name is Agnes Cunha, Chairman for the Pawcatuck Eastern Pequot Indians of Connecticut. We would like this bill to be postponed, too, until we talk to the attorneys. And this is one of the reasons why, because we are always in conflict with the state. There is always a conflict.

We have a conflict now. It is because of the way the Connecticut state laws are reading that we are having this conflict.

REP. MUSHINSKY: Thank you. Are there any questions? Okay. Mitch Cooperman? And then Princess Chikara.

HB 5993

DON BASKUM: Mitch Cooperman was unable to attend today. My name is Don Baskum, and I am the Plant Manager with Dairy Mart. I realize that I am in a minority here, as far as the other dairy people, but we are in an unusual position with Dairy Mart. We don't like to see the price of milk go up, obviously, but on the other hand, we are very sympathetic with the plight of the farmer.

But, very, for one quick moment, I would like to compare some pricing that we have with our plant in Ohio. We have another plant there. Overall, if you were to look at the cost of milk in Ohio, versus Connecticut, you are looking at $2.11 a hundred weight difference. We pay that much more here in Connecticut for the milk. Obviously, there are a number of differences. They have a drought cost. We have RCMA, which they don't have out there. But, overall, what that translates to is about $2.49 a gallon at the retail store for a gallon of 2%, okay? Versus $1.86 out in Ohio.

PRINCESS CHIKARA: Good evening, distinguished Council Members, I am Princess Chikara, representative of the Mohegan Tribe. The Mohegan Tribe is split. The majority of the Mohegan Tribe is not recognized because of the political problems in the State of Connecticut.

I am very concerned about this bill, HB7479. There are council members on this Committee that are no longer in power with their indigenous tribes. Some have lost their voting rights. There has been numerous misappropriations of state, federal and private grants with these former leaders that were put back on the Connecticut Task Force by the Governor, as Governor appointees by the Governor.

And, I am not afraid to speak the truth here. Trudy Lamb Richman is under a court case right now, involving misappropriations of moneys. Ray Gear is not the representative of the Eastern Pequot Tribe. He represents himself. There is also a question about misappropriations of grants that this gentleman has received that the tribe has not. This, these former leaders were also the members of the Connecticut Indian Affairs Council for numerous years. The tribes are back in control of Connecticut Indian Affairs Council.

Because of this fact, the Task Force was created, and again, like I said, these other people were put on the Task Force. Connecticut Indian Affairs Council has been in operation since 1973. There has never been a budget allocated for this agency of the State of Connecticut in all these years. What the proper position of the Task Force should have been is to allocate moneys, also have an office for Connecticut Indian Affairs Council. They should have gone over existing state statutes pertaining to the indigenous tribes in the State of Connecticut before going on to agricultural, I am sorry, archeologist a bill here.

And, I want this Council also to know that some of these members do have their archeology degrees, where there has been moneys misappropriated from these people also. I am willing to stand in court with anyone of them. The indigenous tribes are fed

up. They are not the majority of the indigenous tribes in the state speaking, and if these people get control of any moneys, believe me, it is not going anywhere for the indigenous tribes in the state, because all the moneys that have come in through the years for these people, none, none has been seen by any of the tribes.

And, if you want to take the responsibility to have two million dollars, or whatever is allocated for these people to have control of, then it is going to be you that will be responsible for what is happening to this money. I think the best approach for this, as far as HB7479, is that it should be the Connecticut Indian Affairs Council built up and not start up a whole new Committee and everything else. I think going over the existing laws and ratifying them, that works for the indigenous tribes and works for the State of Connecticut would be far more appropriate, and believe me, it is going to cost you a whole lot less money.

Thank you.

REP. MORDASKY: Princess, wait a minute.

REP. MUSHINSKY: John.

REP. MORDASKY: The mis- the alleged misappropriations of money, are they being investigated? Is there, are they-- How far has the investigation gone?

PRINCESS CHIKARA: There are court cases pending now in court. The Scattaquill issue along, it hit the front page of the Hartford Courant, with all the grants and everything that has been allocated and misappropriated. The tribe didn't even know that all these grants were sent to these leaders, supposedly in the name of the indigenous tribes. They didn't know about it.

What it was, they kept both-- The tribes have been divided in the state, and it is called "Divide and Conquer," and unfortunately, a few of our people, instead of worshiping something, the God of Truth, Wacunda in Mohegan, I am sorry, Wacuna in Cherokee, Minew in Mohegan, had took something very beautiful, as a tree, a living tree. Instead of respecting that and their tribes, they have turned

around and what's money has been made out of trees. It is this dead piece of paper, and they turn around and worship more than what the Creator has made, and the indigenous tribes. They have thought about themselves. We have no idea what happened to these moneys, except that we can show you numerous checks, numerous bank statements and everything else.

And, we have had it. What's going to happen? If these people end up getting this bill passed, these people end up getting a hold of all kinds of moneys again and some sort of power again. Then, you are going to see tribes in the State of Connecticut go full sovereignty, break all relations between the State of Connecticut. And nobody is going to be allowed on Indian lands, and they will end up burning these people out. They have had it. I mean, it has gone far enough, and for these people, they are not recognizing-- Trudy Lamb Richman, Ray Gear, a few others on this Council are not, they are not representing the Indian nations.

And those are the bare facts and the truth, and if you want to see documentation, there is, each and every tribal member that has documentations that you wouldn't believe. And the cases are coming up in court. Like I said, the Sccattaquill issue is, Mohegan issue? Same problem. It's the same few people, and it's been in control of each and every reservation in the State of Connecticut, and this is about time that the indigenous tribes spoke up and stood up to this.

And, we don't want to see the state moneys misappropriated anymore than we want to see Indians doing it, and I am saddened to have to stand here before you and tell you that there are scrupulous Indians in the State of Connecticut. And, I am sorry. I don't know what else to say. Any other questions?

REP. MUSHINSKY: Jerry Grabarek, followed by John Hibbard, and that is the last signed up speaker.

HB 5993

JERRY GRABAREK: Representative Mushinsky, Members of the Environment Committee, thank you for allowing me to speak to you tonight. My name is Jerry

Cassette 1H
Pg 2
Line 4

2457

DEPARTMENT OF TRANSPORTATION TESTIMONY

1. BILL NUMBER: 7479

3. TITLE OF BILL: An Act Implementing the Recommendations of the Task Force on Indian Affairs

3. COMMITTEE: Environment

4. HEARING DATE: March 20, 1989

5. PERSON DESIGNATED TO ATTEND HEARING: Richard Martinez (Transportation) Chief of Planning

6. RECOMMENDED DEPARTMENTAL POSITION: Opposed

7. ATTACHED TESTIMONY PREPARED BY: Maribeth M. Demma

SIGNATURE OF BUREAU HEAD(S) James F. Sullivan DATE 3-16-89

DATE

In the event of questions, please contact Rita O'Connor, extension 5302 or 5303.

For Legislative Office Use Only

Date Submitted to Committee: _____

DEPARTMENT OF TRANSPORTATION TESTIMONY

Bill No. 7479

The Department of Transportation is opposed to Bill No. 7479, as much of it represents a duplication of procedures already mandated by State and Federal legislation to protect significant historic and archaeological resources.

All State agencies are mandated by the Connecticut Environmental Policy Act (CEPA) to consider actual and potential impacts of their activities upon historic, archaeological and cultural sites, objects, districts or their surroundings. In order to meet this mandate, all the Department's activities which may have a potential for impacting these such resources are reviewed by the Connecticut Historic Commission (CHC). Upon request by the CHC, archaeological surveys are undertaken in accordance with CHC guidelines by a professional archaeologist. Should these surveys encounter significant archaeological resources, a plan is developed in consultation with the CHC to avoid, if feasible, or to mitigate the impacts of the activity upon the resource.

In addition to State laws and regulations, there are numerous Federal regulations which protect significant historic and archaeological resources. The primary Federal legislation which govern the preservation of these resources includes the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA) and Section 4(f) of the Department of Transportation Act of 1966. The CHC and its Federal Historic Preservation counter-part and the Federal sponsoring agency review the Department's activities to determine compliance with the aforementioned legislation.

State agencies' compliance with existing State and Federal mandates provide for a systematic policy to recognize, preserve and protect significant archaeological sites, artifacts, and/or objects associated with Connecticut's Native American heritage.

To establish an unnecessary regulatory process, as proposed in this Act, would result in substantial costs to State agencies through added staff and potential delays in projects or programs.

Although the duplication of established legislation is apparent, the Act itself is disjointed and the language is often vague. Also, numerous sections are inconsistent with one another. Only a few of the Bill's deficiencies are as follows:

Throughout the Bill, the terms significant and important are used to describe archaeological sites and lands; however, the Act fails to define what criteria will be used to determine a sites significance.

The defination of "archaeological site or archaeological artifact" (Section 2(2)) is much to vague. This definition could be interpreted to mean any object of human life or activities is an archeological site or artifact as long as it is at least 50 years old.

Section 3 of the Act establishes the Native American advisory council to evaluate and make recommendations on Native American heritage. Yet in other provisions of the Act (Section 8(a)(3), Section 15(b)) this council is given approval or consent authority.

Section 8(b)(a) gives the historical commission the authority to determine whether a human skeletal remains can be preserved in situ. However, Section 15 gives this authority to the state archaeologist, the Native American advisory council and the commissioner of environmental protection.

Section 10(b) of this Act gives the historical commission and state archaeologist the exclusive right and privilege of archaeological investigations on state lands. Knowing the number of archaeological surveys this Department alone performs each year (1988 - 14 surveys at an approximate cost of $70,000), it is doubtful that these two agencies could handle even this Department's archaeological investigations. However, this Act does not provide for the delegation of this right to others.

Section 11(e) prohibits the use of metal detectors or similar remote sensing devices on lands without a permit. These such devices are constantly used by the Department survey and utility crews.

Another major flaw throughout this Bill is that the agencies with control over the lands or programs which may be affected by the various actions proposed in the Bill are not included in any of the consultation or recommendation processes.

This Act requires the historical commission to adopt various regulations (Section 5(b)(16), Section 9(a), Section 11(b)) for implementing provisions of the Act; however, no time frames for doing so are established.

As can be noted from above discussion of duplication, inconsistency and far reaching economic costs, it is clear this bill is seriously flawed and the Department strongly opposes its enactment.

AGENCY COST ESTIMATE OF PROPOSED LEGISLATION

BILL NUMBER: 7479

LCO NUMBER: 3792

TITLE: "AN ACT CONCERNING Implementing The Recommendations Of The Task Force On Indian Affairs"

EFFECTIVE DATE: _____ (first year costs should be prorated based on this date).

STATE AGENCY AFFECTED: _____ FUND AFFECTED: _____

BUDGET DETAIL

	FY88-89	FY89-90	FY90-91	Full Operation FY
Number of Positions:				
Personal Services:*				
Other Expenses:				
Equipment:				
Grants:				
Capital Outlay (Bonding):				
TOTAL EST. STATE COST:				
ESTIMATED REVENUE(or Loss)				
TOTAL NET STATE COST:				

*Includes estimated cost of employee fringe benefits.

EXPLANATION OF STATE ESTIMATES:

Costs incurred would be in two categories: 1. personal services due to increased staff at ConnDOT and 2. costs due to inflation from delayed implementation of projects.

1. Personal Services

Additional Staff

ConnDOT 2

2

x 50,000/yr. (per person)

100,000

2. Costs of Inflation

Estimated changes in construction costs due to delays. $100,000/yr.

It should be noted that these costs are for only ConnDOT. As this Bill would affect all State agencies, the overall cost to the State would be substantial.

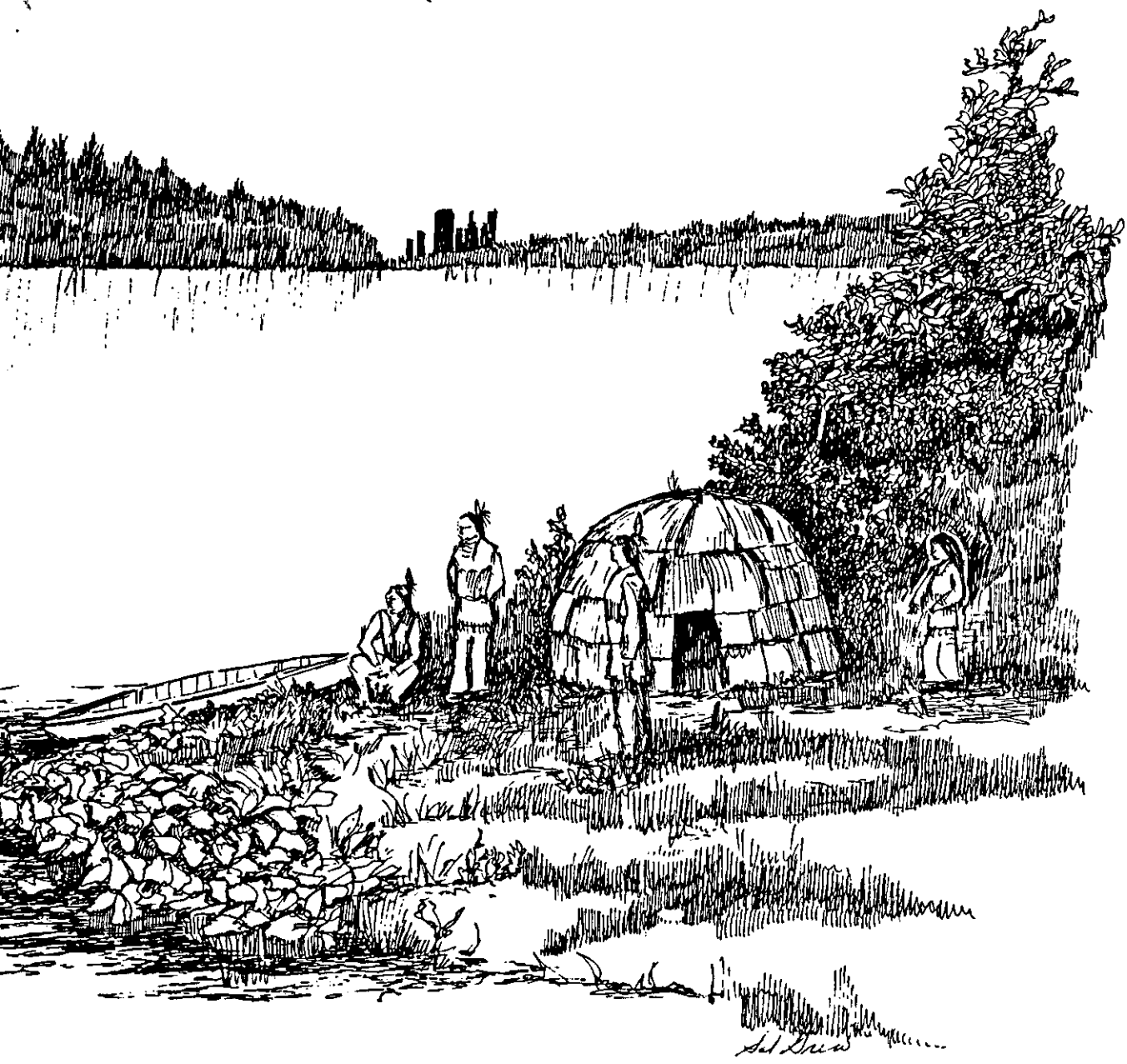
PREPARED BY: Edgar T. Hurle PHONE: 566-5704 DATE: 3-16-89

Cassette 1A
P. 2
3-20-89
line 15

STATE OF CONNECTICUT

LEGISLATIVE TASK FORCE ON INDIAN AFFAIRS

2461



Report to General Assembly
February, 1989

CONTENTS

	Page
Background	1
The Connecticut Tribes	1
Legal History	3
Work of the Task Force	7
Recommendations	11
Extension of Task Force: Issues for Further Investigation	15

Appendices

A. Special Act 87-103, An Act Establishing a Task Force on Indian Affairs

B. Members of the Task Force

C. Meetings

D. Resource Persons

E. Resources

F. Submissions

G. Connecticut General Statutes, Chap. 824, 47-59a -- 66g

H. Connecticut Regulations 47-59b-1 -- 30, and 47-65-1 -- 7

I. Native American Heritage and Archaeological Preservation Act

TASK FORCE ON INDIAN AFFAIRS

BACKGROUND

The Connecticut Tribes[1]

Indians have inhabited Connecticut for more than 10,000 years. Of the many tribes here at the time of the first European contact, five survive today, with a combined total membership exceeding 3,500. There are also thousands of non-indigenous Native Americans residing in Connecticut.

The Golden Hill Paugussett Tribe has its headquarters at the Chief's home in Trumbull, Connecticut, on the 1/4 acre parcel which remains of the original reservation. In 1980 the Tribe was able to purchase an additional 106 acres in Colchester, Connecticut, which is now held in trust by the state. The Golden Hill Paugussetts are the state's only traditionally governed Tribe: whereas the other four tribes now have elected tribal chairmen and tribal councils, the Paugussett Chief is appointed by the clan mother. Most of the tribe's approximately 120 members live in the Bridgeport area.

In Kent, Connecticut, the Schaghticoke Tribe of over 475 members has an approximately 400-acre reservation, established in 1752. Most of the land is steep hillside and the Tribe has sued in federal court for return of the bottom lands taken from them in 1801 and 1811. See Schaghticoke Tribe of Indians v. Kent School, 423 F. Supp. 780 (D. Conn. 1976).

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[1] Much of the material in this section is adapted from an introduction given by Ed Sarabia, Indian Affairs Coordinator, at the first Task Force meeting on February 18, 1988.

The Mohegan Tribe is Connecticut's largest with over 1,000 members. Many live in the Montville, Connecticut area. The Tribe has no reservation; the General Assembly alloted the reservation lands to tribal members in 1861. The Tribe has brought a land claim suit against the state, hoping to regain title to their burial ground at Ft. Shantock and other state lands. See Mohegan Tribe v. State, 483 F. Supp. 597 (D. Conn. 1980), aff'd, 638 F.2d 612 (2nd Cir. 1981), cert. denied, 452 U.S. 968 (1981)' 528 F. Supp. 1359 (D. Conn. 1982).

The Paucatuck Eastern Pequot Tribe is one of two groups of Pequots who returned to their aboriginal homelands after the catastrophe of the Pequot War in 1637. In 1683 they were assigned a reservation near Long Pond in North Stonington, Connecticut, where many of the members now live on the remaining 224.6 acres. The Tribe has 300 to 500 members, but is hindered in its efforts at development by a membership eligibility dispute now on appeal in the Connecticut courts. See Paucatuck Eastern Pequot Indians vs. Connecticut Indian Affairs Council, Superior Court, Judicial District of Hartford, Docket No. 2906127 (July 17, 1987).

The Mashantucket Pequot Tribe, located in Ledyard, Connecticut, is the first and thus far the only one of the Connecticut tribes to gain federal recognition[2] and a settlement of its land claim action. See Mashantucket Pequot Indian Land Claims Settlement Act, 25 U.S.C. § 1751 ff. (October 18, 1983). The Tribe regained over 1,800 acres of land and received a $600,000 economic development fund. They have been able to develop a number of tribal enterprises, including a restaurant, a sand and gravel mine, a water tower, a fire station and a very profitable high-stakes bingo hall. See Mashantucket Pequot Tribe v. McGuigan, 626 F. Supp. 245 (D. Conn. 1986) (state regulation of gambling does not apply to federally recognized tribe's bingo hall on reservation). The Tribe has also built housing for members and a health center. Ninety-five percent of the 110 tribal members who live on the reservation are employed by the Tribe.

Legal History

The State of Connecticut has maintained legal relationships with the Indian tribes since the mid-1600's. The first reservation was set aside in 1659 for the Golden Hill Paugussett Tribe. In 1661 the General Court of the colony appointed the first of a long line of overseers for the Indians. The overseers were directed to give advice to the Pequots and to protect their lands from non-Indian encroachment. The overseers, however, were not effective in fulfilling their trust:

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[2]Tribes, like those in Connecticut, who had no treaties or other dealings with the federal government, must apply to the Bureau of Indian Affairs for federal recognition. If the Bureau determines that an applicant is a bona fide tribe meeting all of its criteria, the tribe will be recognized and will become eligible for federal Indian programs (e.g., health, education, economic development) and will be subject to federal rather than state jurisdiction.

> "The popular account of these officials, widespread in the Indian community, is that they were venal and petty dictators who used their office for their own personal gain and for the benefit of nearly everyone but the Indians they were charged with protecting."

Crosby, David C. "Connecticut Colonial and State Law Governing Alienation of Indian Lands and Administration of Reservations," unpublished research memorandum, October 17, 1974.

The colony also promulgated statutes ostensibly protecting Indian land:

> "This Court orders, that no person in this Colony shall buy, hire or receive as a gift or mortgage, any parcel of land or lands of any Indian or Indians, for the future, except he does buy or receive the same for the use of the Colony or the benefit of some Towne, with the allowance of the Court."

1 Pub. Rec. Conn. 402 (1663). These acts survive today in sections 47-60 and 47-61 of the General Statutes:

> § 47-60. "Except as otherwise expressly provided, all conveyances by any Indian of any land belonging to, or which has belonged to, the estate of any tribe shall be void."
>
> § 47-61. "In any action brought by an Indian or Indians for the recovery of lands owned by Indians, or sequestered for their use by the general assembly or by any town agreeably to law, the defendant shall not plead the statute of limitations, except as against an Indian or Indians authorized by law to convey Indian lands, or as against a town authorized by law to convey Indian lands."

Appendix G at 2.

Nonetheless, over the years more land was lost and the ability of the tribes to be self-sufficient was further eroded. In 1935, the overseer system was abolished and the tribes put under the authority of the state Park and Forest Commission. In 1941 the tribes were reassigned to the Welfare Department. This represented one of the darkest periods for Connecticut's tribes. Unrepealed regulations from the Welfare era show how little authority was left to the Indians. For example:

> "Any Indian entering upon a reservation or building thereon without written permission of the Welfare Commissioner.... shall be evicted from the reservation."

Conn. Regulations § 47-65-7. Appendix H at 13.

In 1973 Connecticut Indians influenced a major change in their legal status vis a vis the state with the passage of Public Act 73-660 (codified at Chap. 824, §§ 47-59a through 47-66g). Appendix G. The act recognizes the five Connecticut tribes and sets up the Indian Affairs Council as an agency to provide services to the state's indigenous Indians and to advise the Commissioner of the Department of Environmental Protection, who is made responsible for the "care and management" of the reservations. Provisions of the act include:

a) Connecticut Indians are recognized as full citizens of the state with special rights to tribal lands (47-59a);

b) The Indian Affairs Council is created with a representative from each tribe and three members appointed by the Governor (47-59b);

c) Indian is defined as a member with 1/8th blood of one of the five tribes or as a person determined to be Indian by the Indian Affairs Council, and the reservations are recognized as such (47-63);

d) The reservations are to be maintained for the benefit of the Indians and no additional leases are allowed (47-64);

e) The Commissioner of Environmental Protection, with the advice of the Indian Affairs Council, is to have the "care and management" of the reservations (47-65);

f) Indians may hunt and fish on the reservations without a license but are subject to state season and bag limits (47-65a);

g) Tribal housing authorities are authorized and described (47-66a - d);

h) Protection is given to Indian burial sites on state land (47-66e & f); and

i) The Commissioner of DEP is to manage the state's interest in Indian affairs (47-66g).

See also, Conn. Regulations §§ 47-59b-1 - 30, "Organization and Rules of Practice of the Indian Affairs Council, Membership in Tribes, and Eligibility to Reside on Indian Reservations." Appendix H.

Although P.A. 73-660 was a large step forward for Connecticut Indians, a number of serious problems have become evident over the years since 1973. "Care and management" of the reservations was never defined and the Department of Environmental PRotection has shifted from its former hands-off policy to a more activist approach, but one which may well impinge upon tribal prerogatives. Were the United States to recognize the remaining four unrecognized tribes and assume jurisdiction in Connecticut, some of P.A. 73-660's provisions would probably be found unconstitutional under federal law: the 1/9th blood requirement interferes with a tribe's inherent authority to control its membership and the hunting and fishing and land use provisions conflict with their right of self-government. The act provides only the most limited protection of burial sites and only those on state land. A final major defect in the act is that the Indian Affairs Council, which is recognized as a state agency, Hopkins v. Pac, 180 Conn. 474 (1980), is unfunded. C.G.S. § 47-59b (a). Without staff or a budget, the Council is to be congratulated simply for surviving, much more so for its accomplishments.

In June of 1986, Commissioner of Environmental Protection, Stanley Pac responded to complaints from the Indian community about the inadequacy of the present statutory systems by appointing Rachel Reich Towbin, Senior Environmental Analyst, Planning and Coordination, Coastal Management, to hold hearings with a view toward legislative

revision. The product of those hearings was a wealth of proposals from the Indian community and the enactment of Special Act 87-103, "An Act Establishing a Task Force on Indian Affairs." Appendix A.

WORK OF THE TASK FORCE ON INDIAN AFFAIRS

The Task Force on Indian Affairs is made up of sixteen[3] members--three legislators, representatives from each of the five Connecticut tribes and from the Department of Environmental Protection, the Office of Policy and Management and the Connecticut Indian Affairs Council and an archaeologist and four Indians appointed by the Governor. See Appendix B for a list of members. The Task Force is charged with making a thorough study of Connecticut's dealings with Native Americans, followed by recommendations to the General Assembly. It is directed to:

> "review existing statutes, budgets, agencies and programs affecting Connecticut Indians. The task force shall study and make recommendations on all aspects of the state's responsibilities for Indian affairs....."

There follows a non-exclusive list of fourteen topics that the Task Force is to study. Special Act 87-103. Appendix A.

The Task Force was convened on February 18, 1988[4] by Commissioner of Environmental Protection Leslie Carothers. It had held twenty meetings, nearly two a month, by

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[3]Because the Mashantucket Pequot Tribe did not designate a representative, only fifteen members have actually participated.

[4]Special Act 87-103 provided that the Task Force convene by September 1, 1987.

January 25, 1989. At the first meeting, the members elected Representative John W. Thompson as Chairperson. At its second meeting the members organized the fourteen specific topics listed in the Special Act (see Appendix A) into broad categories which were set forth as follows:

1) Tribal Sovereignty

- Define Indian v. Membership in Tribe
- Authority of Tribe
- Land, Reservation
- Rights of Tribes
- Tribal Government Responsibility
- State Government Responsibility

2) Define Indigenous v. Non-indigenous v. non-recognized Indians

3) Indian or Tribal Relationship with the State

- Human Service Needs
- Connecticut Indian Affairs Council
- Land, Maintenance

4) Indian Remains and Objects

- Preservation of These Sites and Objects.

At the meeting of March 21, 1988, Nicholas Bellantoni, State Archaeologist, and David Poirier, Historical Commission, met with the Task Force for an extended discussion of burial sites and archaeological remains, issues which were again discussed on April 5, 1988, and a subcommittee appointed to report on the issue. Members of the subcommittee are Kevin McBride, Mikki Aganstata, Trudie Lamb Richmond, Bellantoni and Poirier.

Several meetings were then devoted to the questions identified with "tribal sovereignty."[5] The Task Force determined to proceed via a discussion paper on sovereignty issues

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[5]The term "tribal sovereignty" expresses the concept that, because the Indian tribes were independent self-governing nations long before the arrival of Europeans on this continent, they retain certain aspects of that sovereignty today. Becoming subject to the British and later to the United States stripped them of the power to make war or to engage in diplomatic relations with foreign governments, but it did not deprive them of their nationhood, their inherent rights of self-government or their control over their own territory.

Justice John Marshall was the first to articulate the principles of tribal sovereignty. In Worcester v. Georgia, 31 U.S. (6 Pet.) 515, 559-60 (1832), he said:

> "The Indian nations had always been considered as distinct, independent political communities . . . . [A]nd the settled doctrine of the law of nations is that a weaker power does not surrender its independence --its right to self-government--by associating with a stronger and taking its protection."

Felix Cohen, in his major study of Indian law, put it this way:

> "Perhaps the most basic principle of all Indian law, supported by a host of decisions. . . .is the principle that those powers which are lawfully vested in an Indian tribe are not, in general, delegated powers granted by express acts of Congress, but rather inherent powers of a limited sovereignty which has never been extinguished. Each Indian tribe begins its relationship with the Federal Government as a sovereign power, recognized as such in treaty and legislation. The powers of sovereignty have been limited from time to time by special treaties and laws designed to take from the Indian tribes control of matters which, in the judgment of Congress, these tribes could no longer be. . . .permitted to handle. The statutes of Congress, then, must be examined to determine the limitations of tribal sovereignty rather than to determine its sources or its positive content. What is not expressly limited remains within the domain of tribal sovereignty." (emphasis added)

Cohen, F. Handbook of Federal Indian Law, 122 (1942).

to be prepared by Rachel Towbin, DEP representative, and David Leff of the Office of Legislative Research. It was thought that this would be a more successful approach than becoming bogged down in the specific language of the present statutes. Use of the discussion paper enabled the members to focus the work and to begin on June 16, 1988, to pass upon specific recommendations.

Further meetings continued to address the preservation of burial and archaeological sites and tribal sovereignty. The subcommittee produced a bill, endorsed by the Task Force as a whole, which is here recommended to the General Assembly for action during this session. It appears in Appendix I and is titled the "Native American Heritage and Archaeological Preservation Act." A series of recommendations on tribal sovereignty is also presented in the next section of this report. These are in the form of principles which have yet to be drafted into statutory provisions. Much remains to be done and the topics requiring further study are set out in the final section of this report.

It is noteworthy that, except for a few abstentions, all of the recommendations presented here by the Task Force represent either a consensus of the members or a unanimous vote.

RECOMMENDATIONS

1. The Task Force on Indian Affairs has based its work upon the following two principles and recommends that these principles continue to guide legislative drafting:

A. That the State of Connecticut recognizes the five indigenous Tribes as separate self-governing entities.

B. That the Governor shall pursue a trust agreement with each willing indigenous Tribe; such trust agreement shall define the special nature of the state's relationship with each particular tribe.

2. The Task Force further recommends:

A. That the "Native American Heritage and Archaeological Resources Preservation Act," Appendix 1, be presented to the General Assembly for action during this session.

B. That the Task Force on Indian Affairs receive an extension so as to be able to complete its mandate. See pages 15 - for a description of the work remaining to be done.

3. To carry out the principles in section one above, the Task Force recommends that the following provisions be incorporated into new legislation:

A. Tribal Powers

1. The State of Connecticut recognizes that each of the five indigenous Tribes is a sovereign nation which retains limited sovereign powers and will exercise those powers according to the needs of each Tribe.

2. A Tribe's sovereign powers of self-government include, but are not limited to:

   a. The power to determine tribal membership and residency on reservations;

   b. The power to determine its own form of government and to regulate trade and commerce on the reservation;

   c. The power to make contracts; and

   d. The power to assess and levy any and all taxes on reservation residents and to make appropriations.

B. Tribal Leadership

1. In order for the state to carry out its trust responsibilities to the Tribes and to facilitate agreements with the Tribes, the state recognizes that tribal leadership shall be determined by the Tribe in accordance with its usage and practice. For a tribal leader to be recognized by the state, the selection method shall be in writing and filed with the Governor for transmittal to the Secretary of the State, and shall include a description of how tribal leaders exercise their authority. The name of the tribal leaader or leaders shall also be filed with the Secretary of the State for the purpose of state recognitions.

2. Tribes shall first attempt to resolve leadership disputes in accordance with tribal usage and practice. If a party to a dispute requests, the issue may be settled by a council of three people, one selected by each of the parties and a third by both parties, but if the parties cannot agree, the third shall be selected by the governor and shall be a person knowledgeable in Indian Affairs. The decision of the council shall be final as to substantive issues, but an appeal may be taken to the Superior Court to determine whether written tribal and statutory procedures have been followed.

C. Tribal Membership

1. The Tribes shall determine their membership and establish membership qualifications.

2. In order for the state to carry out its trust responsibilities to the Tribes, the tribal membership rules shall be submitted to the Secretary of the State along with a membership roll updated annually. The rules may contain methods for revoking membership.

3. Tribes shall first attempt to resolve membership disputes in accordance with tribal usage and practice. If a party to a dispute requests, the issue may be settled by a council of three people, one chosen by each party and a third by both, but if the parties cannot agree, the third shall be selected by the Governor and shall be a person knowledgeable in Indian affairs. The decision of the council shall be final as to substantive issues, but an appeal may be taken to the Superior Court to determine whether written tribal and statutory procedures have been followed.

D. Reservations

1. Reservation land shall continue to be held in trust by the state to prevent its alienation and to insure its availability for future generations of Indians.

2. The Tribe shall decide who may live on reservation lands. It is a principle right of the tribal government to exercise its own guidelines of just cause for determining residency privileges on the reservation.

3. Except for the power of alientation, a Tribe exercises all rights incident to ownership of lands held in trust by the state.

4. Tribes may lease reservation land for up to 25 years.

E. Taxation

1. No state or local property tax shall be assessed on real property owned by a Tribe and held in trust by the state.

2. The state shall continue to make payments in lieu of taxes to municipalities for reservation land held in trust by the state.

3. No town property tax shall be imposed on motor vehicles owned by tribal members or their spouses and garaged on the reservation.

F. Protection of Burials and Archaeological Resources

See Appendix I for the text of the "Native American Heritage and Archaeological Resources Preservation Act," which that Task Force endorses and presents to the General Assembly for action.

The Act was drafted by a subcommittee of the Task Force consisting of Kevin McBride, Mikki Aganstata and Trudie Lamb Richmond, Task Force members, Nicholas Bellantoni, State Archaeologist, and David Poirier, Connecticut Historical Commission, with the leadership and technical assistance of Russell Handsman, American Indian Archaeological Institute.

Extension of Task Force: Issues for Further Investigation

The Task Force recommends extension of its authorization for an additional thirteen months until February 1, 1990 for further study of the topics listed below. These include a few within the Task Force's original charge under S.A. 87-103 and several others which arose during the Task Force's investigations. All have been studied and discussed to some extent, but require more extensive review before any substantive recommendations can be made.

1. Resolution of state government roles and duties to Native Americans.

   In addition to continuing discussion of this topic regarding indigenous Native Americans, similar study is also required regarding non-indigenous Native Americans.

2. Role, structure and funding of the Indian Affairs Council.

   If the recommendations discussed above are passed, the role of Indian Affairs Council (CIAC) will alter. More discussion is needed to determine what the responsibilities of the CIAC should be. There is consensus that CIAC should continue to address issues common to indigenous Indians and that this state agency should be funded appropriately.

3. Resources available for technical assistance to tribal governments

   The Task Force has discussed the benefits to the tribes and states from development of tribal governments such as the Council on Intergovernmental relations now provides to municipalities but proposals need more study.

4. State endorsement and/or assistance to tribes seeking federal recognition.

   The Task Force has begun to investigate the benefits to the tribes and the state of federal recognition. The form, extent and impact of this assistance requires more discussion.

5. Preservation of reservation land for the tribes in light of escheat provisions of Sec. 47-64 CGS.

6. Access to sacred sites on state and private land for ceremonial purposes. *This has been touched upon in discussions* of trust agreements and protection of sacred sites but needs specific review with regard to access for ceremonial purposes.

7. Ways to increase state government awareness and sensitivity to Native Americans. Full examination of this issue was deferred pending resolution of state government's roles and duties to Native Americans.

8. Authorization of Indian spirtual leaders to perform marriages.

   The Task Force's initial recommendation is to support this authorization, however more time is needed to examine its *impacts and to resolve administrative issues.*

9. The impact of federal budget cuts for Indian development and proposed measures to deal with such cuts.

10. Application of state sales tax to transactions on reservations.

11. Further description and review of trust agreements, including law enforcement and care and management of reservations.

12. Jurisdiction of criminal and civil law on reservations.

    This topic was discussed at length but further study and resolution of conflicting views are still needed.

Substitute Senate Bill No. 854

SPECIAL ACT NO. 87-103

AN ACT ESTABLISHING A TASK FORCE ON INDIAN AFFAIRS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

(a) There is established a task force on Indian affairs to review existing statutes, budgets, agencies and programs affecting Connecticut Indians. The task force shall study and make recommendations on all aspects of the state's responsibilities for Indian affairs including, but not limited to, the following: (1) Title to reservation land and state responsibility for land held in trust for a tribe by the state; (2) state responsibility for reservations; (3) the jurisdiction of criminal and civil law on reservations and law enforcement; (4) the legal process for determining tribal membership; (5) the rights of tribal government; (6) the escheat provisions of section 47-64 of the general statutes; (7) the determination of membership of Indians of tribes not recognized by the state on the Indian Affair's Council; (8) the imposition of state and local taxes on reservations and tribes; (9) access to sacred sites on state and private land for ceremonial purposes; (10) determination of procedures to be followed upon discovery of a burial site; (11) the responsibility for Indian remains, including those of Indians of tribes not recognized by the state; (12) ways to increase state government awareness and sensitivity to Indians; (13) the adequacy of job training and economic assistance for tribes and the need for additional programs; and (14) the impact of expected federal budget cuts for Indian development and proposed measures to deal with such cuts.

(b) The task force shall consist of sixteen members as follows: (A) One representing each of the five Connecticut tribes appointed by said tribes; (B) four Indian persons knowledgeable in the field of federal Indian law and Connecticut Indian affairs, culture, history and law, appointed by the governor; (C) an archeologist knowledgeable in Indian affairs, appointed by the governor; (D) the secretary of the office of policy and management, the commissioner of environmental protection, the chairman of the Indian Affairs Council or their designees and (E) three members of the general assembly, from either

house, one appointed by the president pro tempore of the senate, one appointed by the speaker of the house of representatives and one appointed jointly by the minority leaders of the house and senate. Any designee shall have full voting authority. Said task force shall choose a chairman from among its members.

(c) The task force shall hold its first meeting, to be called by the commissioner of environmental protection, on or before September 1, 1987. The task force shall submit a report of its study and recommendations to the governor and general assembly on or before January 1, 1989. The task force may report recommendations, in whole or in part, at any time prior to said date.

Certified as correct by

_____
Legislative Commissioner

_____
Clerk of the Senate.

_____
Clerk of the House

Approved _____, 1987

_____
Governor, State of Connecticut.

Appendix A

MEMBERS

TASK FORCE ON INDIAN AFFAIRS

Representative John W. Thompson, Chair
Manchester (D-13)

Representative William R. Dyson
New Haven (D-94)

Representative Andrew McCall Norton
North Westchester (R-48)

Chief Big Eagle (Aurelius Piper); Alternate, Moonface Bear
Golden Hill Paugussett Tribe

Richard Velky; Alternate, Tracey Kurjiaka
Schaghticoke Tribe

Raymond Geer
Paucatuck Eastern Pequot Tribe

Stilson Sands
Mohegan Tribe

Mikki Aganstata
Governor Appointee, Cherokee

Patricia Benedict
Abanaki

Richard Hayward
Governor Appointee, Mashantucket Pequot

Trudie Lamb Richmond
Governor Appointee, Schaghticoke

Kevin McBride
Governor Appointee, Archaeologist

Robert DeGregorio
Office of Policy and Management

Rachel Towbin
Department of Environmental Protection

Paulette Crone
Chair, Connecticut Indian Affairs Council

MEETINGS

TASK FORCE ON INDIAN AFFAIRS

February 18 1988

March 7, 1988

March 21, 1988

April 5, 1988

May 10, 1988

May 26, 1988

June 16, 1988

June 30, 1988

July 13, 1988

August 4, 1988

September 1[illegible], 1988

September 28, 1988

October 12, 1988

November 9, 1988

November 30 1988

December 7, 1988

December 14 1988

January 3, 1989

January 18, 1989

January 25, 1989

February 22, 1989

Appendix C

RESOURCE PERSONS

TASK FORCE ON INDIAN AFFAIRS

David Keith Leff
Office of Legislative Research

Edward Sarabia
Indian Affairs Coordinator, Department of Environmental Protection

Nicholas Bellantoni
State Archaeologist

David Poirier
Connecticut Historical Commission

Russell G. Handsman
American Indian Archaeological Institute

Julia T. Bradley
Indian Law Project, Connecticut Legal Services, Inc.

Jim West
Cheyenne

William A. Millar, II
Tribal Manager, Mashantucket Pequot Tribal Council

RESOURCES

TASK FORCE ON INDIAN AFFAIRS

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TO

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Crone, Paulette S. "Jurisdiction and Sovereignty." 5/10/88.

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Velky, Richard L. "Letter" re attendance at Task Force meetings. 12/14/88.

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CHAPTER 824

INDIANS

Secs. 47-57 and 47-58. Resident aliens and French citizens, rights re real estate. When nonresident aliens may hold real estate. Sections 47-57 and 47-58 are repealed.

(1949 Rev., S. 7166, 7167; P.A. 74-60; P.A. 85-211, S. 2.)

Sec. 47-58a. Transferred to Chapter 821, Sec. 47-7a.

Sec. 47-59. Overseer of Indians. Section 47-59 is repealed.

(1949 Rev., S. 7168; 1961, P.A. 304, S. 6.)

See Sec. 47-65 re management of reservations and reservation residents generally.

Sec. 47-59a. Connecticut Indians; citizenship, civil rights, land rights. It is hereby declared the policy of the state of Connecticut to recognize that all resident Indians of qualified Connecticut tribes are considered to be full citizens of the state and they are hereby granted all the rights and privileges afforded by law, that all of Connecticut's citizens enjoy. It is further recognized that said Indians have certain special rights to tribal lands as may have been granted to them in the past by treaty or other agreements.

(P.A. 73-660, S. 1, 11.)

Cited. 176 C. 318, 319. Cited. 180 C. 474, 475, 478.

Sec. 47-59b. Indian Affairs Council; composition, duties, executive director, regulations, report. (a) There shall continue to be an Indian Affairs Council, consisting of one representative from each of the following Indian tribes: The Schaghticoke, the Paucatuck Pequot, the Mashantucket Pequot, the Mohegan and the Golden Hill Paugussett; to be appointed by the respective tribes, and three persons appointed by the governor who are electors within the state but not elected or appointive officials of the state or any of its political subdivisions and are not of Indian lineage. Appointments made under this section shall be for terms of three years, beginning October 1, 1973. Each Indian tribe may designate from among its members an alternate representative who may serve from time to time in place of its appointive representative. Vacancies on said council shall be filled by the respective appointing authority for the unexpired balance of the term. The members of said council shall be compensated for their services thereon at the rate of twenty-five dollars per day and shall be reimbursed for their necessary expenses. Said council shall provide services to the

Indian reservation community of the state and formulate programs suitable to its needs. The council may select an executive director who shall serve at no expense to the state but may be compensated with funds contributed by the tribes.

(b) The Indian Affairs Council shall determine the qualifications of individuals entitled to be designated as Indians for the purposes of administration of this section and sections 47-59a, 47-63, 47-64, 47-65, 47-65a and 47-66, and shall decide who is eligible to reside on reservation lands, subject to the provisions of subsection (a) of section 47-64 and section 47-63.

(c) The Indian Affairs Council shall review the regulations governing Indian affairs in the state of Connecticut and advise the commissioner* on promulgation of new regulations. The council shall report annually, no later than September first, to the governor and the general assembly on the activities of the council and the state of affairs of the Indian people in the state.

(P.A. 73-660, S. 2, 3, 10; 1, P.A. 74-168, S. 1, 2; P.A. 75-129, S. 1, 2; P.A. 81-375, S. 1, 4.)

*See Sec. 47-65 re management of reservations and reservation residents and re duties of environmental protection commissioner in connection with reservation management.

History: P.A. 74-168 continued existence of council, added representative from Golden Hill tribe and allowed compensation of twenty-five dollars per day where previously members received no compensation but were reimbursed for necessary expenses; P.A. 75-129 authorized tribes to designate alternate representatives; P.A. 81-375 amended Subsec. (a) to change names of tribes as of July 1, 1981.

The Indian Affairs Council is an "agency" within the meaning of Sec. 4-166(1) and is subject to the provisions of the Uniform Administrative Procedures Act. 180 C. 474, 475, 478, 479.

Sec. 47-60. Conveyances by Indians void. Except as otherwise expressly provided, all conveyances by any Indian of any land belonging to, or which has belonged to, the estate of any tribe shall be void.

(1949 Rev., S. 7169.)

A prescriptive right of way cannot exist over lands, the conveyance of which is forbidden by law. 51 C. 71. Cited. 180 C. 474, 475, 478.

Sec. 47-61. No title by possession against an Indian. In any action brought by an Indian or Indians for the recovery of lands owned by Indians, or sequestered for their use by the general assembly or by any town agreeably to law, the defendant shall not plead the statute of limitations, except as against an Indian or Indians authorized by law to convey Indian lands, or as against a town authorized by law to convey Indian lands.

(1949 Rev., S. 7170.)

Cited. 180 C. 474, 475.

Sec. 47-62. Taking wood from land of Indian. Section 47-62 is repealed.

(1949 Rev., S. 7171; 1961, P.A. 204, S. 6.)

See Sec. 47-66 authorizing commissioner of environmental protection to maintain an action to recover property misappropriated from a reservation.

Sec. 47-63. Definitions. The following terms as used in sections 47-63 to 47-66, inclusive, shall have the following meanings: "Indian" means a person of at least one-eighth Indian blood of any of the following tribes, Paucatuck Pequot, Mashantucket Pequot, Schaghticoke, Golden Hill Paugussett and Mohegan or as may be determined by the council under the provisions of subsection (b) of section 47-59b; "reservation" means the Paucatuck Pequot reservation in the town of North Stonington, assigned to the use of the Paucatuck Pequot tribe; the Golden Hill Paugussett reservations in the towns of Trumbull and Colches-

er, assigned to the Golden Hill Paugussett tribe; the Schaghticoke reservation in the town of Kent, assigned to the Schaghticoke tribe, and the Mashantucket Pequot reservation in the town of Ledyard, assigned to the Mashantucket Pequot tribe; "tribal funds" means the money held by the state for the use and benefit of a tribe as distinguished from legislative appropriations.

(1961, P.A. 304, S. 1; P.A. 73-660, S. 9, 11; P.A. 81-375, S. 2, 4.)

History: P.A. 73-660 redefined "Indian" to list specific tribes, replacing reference to persons of tribes "for whose use any reservation was set out"; P.A. 81-375 amended section to change names of tribes and to add reference to Colchester reservation as of July 1, 1981.

Cited. 180 C. 474, 475.

Sec. 47-64. Use of reservations; restriction of leases; escheats. (a) Reservations shall be maintained for the exclusive benefit of Indians who may reside on such lands, except that any person, other than an Indian, who lawfully resided on a reservation on July 1, 1973, may continue to reside thereon. The lawful spouse and children of an Indian may reside on a reservation with such Indian for as long as such Indian so resides. If such spouse or children do not qualify for such residence on the death of such Indian, such spouse or children shall be reimbursed on the basis of the actual sale price of any building minus any expenses to the state incurred in the sale of any building on such reservation which may have belonged to such Indian.

(b) No portion of any reservation shall be leased, but any lease in effect on July 1, 1973, may continue for the duration of such lease and may be renewed at the discretion of the Indian Affairs Council.

(c) Notwithstanding any provision of the general statutes or any special act to the contrary, any Indian reservation property that escheats to the state shall be preserved as an Indian historical area, under the control of the department of environmental protection

(1961, P.A. 304, S. 2, 3; P.A. 73-660, S. 3, 6, 11.)

History: P.A. 73-660 changed applicable dates from July 1, 1961, to July 1, 1973, added provision in Subsec. (a) re reimbursement for spouse or children who no longer qualify to reside on reservation following death of their relative and deleted provisions which placed burden of proving residency eligibility on claimant and re welfare commissioner's regulation of times when Indians, descendents and guests may use reservation for recreational and social purposes, in Subsec. (b) replaced welfare commissioner with Indian Affairs Council and added Subsec. (c).

Cited. 180 C. 474, 475, 478, 479.

Sec. 47-65. Management of reservations and residents thereon. Adoption of regulations. Governor designated administrative agent. (a) The commissioner of environmental protection with the advice of the Indian Affairs Council shall have the care and mangement of reservation lands. The commissioner and the council shall establish the boundaries of such reservations by land survey and shall file a map of the same in the land records of the appropriate towns.

(b) All reservation buildings not privately owned shall be subject to the care and mangement of the commissioner of environmental protection. The commissioner with the advice of the Indian Affairs Council shall, upon the petition of the resident make major repairs and improvements to the exterior of any such building and its heating, water, electric, sewage disposal and plumbing systems as are necessary to insure habitable living conditions. The resident of any building shall assume responsibility for the interior maintenance of floors, walls and ceilings and minor maintenance of the building and its heating, water, electric, sewage disposal and plumbing systems, provided the commissioner shall supply necessary materials for such systems.

(c) The council may, upon petition of an Indian resident without sufficient means to support himself, provide assistance in an amount necessary to maintain a standard of living in the home compatible with the well-being of the resident. The council shall provide other services as it deems necessary to insure the well-being of all persons residing on the reservations.

(d) The commissioner and the council may adopt and amend regulations pursuant to chapter 54 to carry out the provisions of subsections (a) and (b) of this section. The council shall adopt regulations which prescribe eligibility standards for assistance and services under subsection (c) of this section.

(e) The governor is hereby designated the administrative agent of the state to apply for any funds or other aid, cooperate and enter into contracts and agreements with the federal government, the Indian Housing Authority or any other appropriate state or local agency for the purpose of providing necessary services to housing projects to be located on Indian reservations within the state of Connecticut or for any other purpose which the Congress of the United States or the general assembly has authorized or may authorize for expenditures compatible with the services provided for in this chapter. The governor is authorized in the name of the state to make all applications, sign all documents, give assurances and do all other things necessary to carry out the provisions of this chapter.

(1961, P.A. 304, S. 4; P.A. 73-660, S. 4, 11; P.A. 76-97, S. 1, 2; P.A. 78-40, S. 1, 2.)

History: P.A. 73-660 transferred duties of welfare commissioner re care of land, buildings, boundaries and regulations to insure health, safety and well-being to commissioner of environmental protection and Indian Affairs Council, deleting provision re welfare commissioner's past duties to assist needy Indians, repair and improve buildings, to adopt and enforce resolutions, etc. P.A. 76-97 limited duties of commissioner and council to reservation lands, abolishing their powers re "care and management of persons, etc. and added Subsecs. (b) to (d) clarifying general statements of prior provisions; P.A. 78-40 added Subsec. (e) governor's role in obtaining federal assistance for housing projects on reservations.

Cited. 180 C. 474, 475, 478–480.

Sec. 47-65a. Hunting and fishing on reservations. Notwithstanding the provision of section 26-27, any Indian may take, hunt or trap any wild bird or quadruped on, or take or assist in taking any fish or bait species in the waters of the reservation of his tribe without license therefor, subject to the regulations promulgated by the council and to such seasons and bag limitations as may be provided by law.

(P.A. 73-660, S. 7, 11.)

Cited. 180 C. 474, 475, 480.

Sec. 47-66. Tribal funds. Tribal funds shall be under the care and control of the commissioner of environmental protection with the advice of the Indian Affairs Council and may be used for the purposes set forth in section 47-65. Said commissioner shall annually settle his accounts of the affairs of each tribe with the comptroller, and his report to the governor shall furnish, with respect to each tribe, a statement of the amount and condition of its funds, an estimate of the value of its lands and the income annually received and the expenditures made by said commissioner from such fund. Said commissioner may maintain an action in his name to recover any property misappropriated from a reservation.

(1961, P.A. 304, S. 5; P.A. 73-660, S. 5, 11.)

History: P.A. 73-660 placed funds under control of environmental protection commissioner and Indian Affairs Council rather than under control of welfare commissioner.

Cited. 176 C. 318, 319. Cited. 180 C. 474, 475, 479.

Sec. 47-66a. Indian housing authority. Creation and powers. There is created with respect to each Indian tribe named in section 47-63, a public body corporate and politic

to be known as the "housing authority" of said Indian tribe possessing all powers, rights and functions specified for municipal authorities created pursuant to chapter 128 provided said Indian housing authority shall not transact any business nor exercise its powers hereunder until or unless the governing council of said tribe, by proper resolution declares that there is a need for an authority to function for said tribe. Except as otherwise provided in sections 47-66a to 47-66d, inclusive, all the provisions of law applicable to housing authorities created for municipalities and the commissioners of such authorities shall be applicable to Indian housing authorities and the commissioners thereof, unless a different meaning clearly appears from the context. The chief or other governing head and governing council of an Indian tribe are hereby authorized to exercise all appointing and other powers with respect to an Indian housing authority that are vested under part I of said chapter 128, in the chief executive officer and governing body of a municipality. The Indian housing authorities shall be operated in conformity with Title II of the Civil Rights Act of 1968.

(P.A. 76-377, S. 1.)
Cited. 180 C. 474, 475.

Sec. 47-66b. Commissioners. The chief or other governing head shall appoint five commissioners who shall be members of the tribe for which the authority is created. Holding of any tribal office shall not bar appointment of any such tribal member to a tribal housing authority. No person shall be barred from serving as a commissioner because he is a tenant or home buyer in a tribal housing project.

(P.A. 76-377, S. 2.)
Cited. 180 C. 474, 475.

Sec. 47-66c. Area of operation. The area of operation of a tribal housing authority shall be within the territorial boundaries of the reservation set aside for the tribe as specified in section 47-63.

(P.A. 76-377, S. 3.)
Cited. 180 C. 474, 475.

Sec. 47-66d. Lease of tribal property to housing authority. Notwithstanding the provisions of subsection (b) of section 47-64, any real property located on an Indian reservation, as defined in section 47-63, required by a tribal authority for use in its area of operation in providing housing shall be leased to the housing authority by the respective tribal governing body with the approval of the commissioner of the department of environmental protection, upon such lawful terms as shall be agreeable to the parties.

(P.A. 76-377, S. 4.)
Cited. 180 C. 474, 475.

Sec. 47-66e. Indian burial sites. Inventory of state land. On or before January 1, 1982, the Indian Affairs Council shall, with the advice and assistance of any federal or state department or agency or any private agency or organization having an interest in such matters, establish an inventory of state land which contains or which may reasonably be expected to contain an Indian burial site and shall make such inventory available to state departments and agencies.

(P.A. 81-242, S. 1, 3.)

Sec. 47-66f. Excavation of Indian burial sites. Notice. Removal and reinterment of remains. After January 1, 1982, any state department or agency which intends to disturb the subsoil of any state land containing an Indian burial site, or which discovers an Indian

burial site while engaged in excavation activities on any state land shall notify the Indian Affairs Council and the commissioner of environmental protection of such intent or discovery, in writing, and shall allow twenty-one days from the date of notification for removal for the purpose of reinterment of the contents of such site by the department of environmental protection as the Indian Affairs Council so directs. The provisions of sections 7-67 and 7-69 shall not apply to the removal and reinterment of the contents of Indian burial sites conducted by the department of environmental protection in accordance with the provisions of this section.

(P.A. 81-242, S. 2, 3.)

Sec. 47-66g. **Management of Indian affairs.** The commissioner of environmental protection with the advice of The Indian Affairs Council shall manage the state's interest in Indian affairs not otherwise specified in this chapter, including but not limited to, maintaining state documents, providing information to tribal members and coordinating governmental grant programs.

(P.A. 82-178.)

TABLE OF CONTENTS

Organization and Rules of Practice of the Indian Affairs Council, Membership in Connecticut Indian Tribes, and Eligibility to Reside on Indian Reservations

Creation and authority 47-59b- 1
Location of principal office 47-59b- 2
General duties and responsibilities 47-59b- 3
Composition of council 47-59b- 4
Seating of representatives 47-59b- 5
Same; challenges 47-59b- 6
Policy 47-59b- 7
Complaints and requests for information 47-59b- 8
Procedure governed 47-59b- 9
Definitions 47-59b-10
Procedure for issuance, amendment or repeal of a regulation 47-59b-11
Computation of time 47-59b-12
Extensions of time 47-59b-13
Consolidation 47-59b-14
Return for incompleteness 47-59b-15
Office 47-59b-16
Date of filing 47-59b-17
Identification of communications 47-59b-18
Signatures 47-59b-19
Formal requirements as to documents and other papers filed in proceedings 47-59b-20
Standards for determining membership 47-59b-21
Application for recognition of Indian status: contents 47-59b-22
Same: decision of tribe: certification by council 47-59b-23
Same: objection to certification 47-59b-24
Certification hearing; procedure 47-59b-25
Same; scope of review 47-59b-26
Same; burden of proof 47-59b-27
Certification in the absence of protest 47-59b-28
Residence on reservation 47-59b-29
Intrusion by non-members 47-59b-30

Organization and Rules of Practice of the Indian Affairs Council, Membership in Connecticut Indian Tribes, and Eligibility to Reside on Indian Reservations

ARTICLE I

DESCRIPTION OF ORGANIZATION

Part I

Introduction

Sec. 47-59b-1. Creation and authority

The Council was established by, and derives its authority from Sections 47-59a to 47-66, Connecticut General Statutes, revised to January, 1975, as amended by P.A. 75-129.

(Effective June 1, 1976)

Sec. 47-59b-2. Location of principal office

The principal office of the Council is located at Hartford, Connecticut. All communications should be addressed to the Connecticut Indian Affairs Council, State Office Building, Room 248, 165 Capitol Avenue, Hartford, Connecticut 06115, unless otherwise specifically directed.

(Effective June 1, 1976)

Sec. 47-59b-3. General duties and responsibilities

The Council, in conjunction with the Commissioner of Environmental Protection, is charged with administering legislation concerning Connecticut Indians and their reservations. The Council is specifically charged with the following duties: To provide services to the Indian reservation community and formulate programs suitable to its needs; to determine the qualifications of individuals entitled to be designated as Indians for the purposes of administering Sections 47-59a to 47-66 of the General Statutes, as amended by P.A. 75-129, and to decide who is eligible to reside on reservation lands pursuant to the said Statutes; to promulgate hunting and fishing regulations applicable to the reservations; to advise the Commissioner of Environmental Protection concerning the general health, safety, and well-being of persons residing on reservations; to advise the Commissioner of Environmental Protection concerning the care and management of reservation lands and buildings thereon; to advise the Commissioner of Environmental Protection concerning the care and control of tribal funds; in conjunction with the Commissioner of Environmental Protection to survey and map the reservations.

(Effective June 1, 1976)

Sec. 47-59b-4. Composition of council

The Council consists of one representative of each of the following Indian Tribes: Schaghticoke, Eastern Pequot, Western Pequot, Mohegan and Golden Hill; and

three persons appointed by the Governor who are electors within the State but not elective or appointive officials of the State or any of its political subdivisions and are not of Indian lineage. Tribal representatives are appointed by the respective tribes, which may also designate an alternate to observe Council meetings and act in the absence of the tribal representative. All appointments are for terms of three years, beginning October 1, 1973, except that the first representative from the Golden Hill shall serve from the date of his appointment to September 30, 1976. Tribal representatives may be recalled at any time by their respective appointing authorities, with or without cause.

(Effective June 1, 1976)

Sec. 47-59b-5. Seating of representatives

Each tribal organization seeking representation on the Council shall file a description of the organization, its membership, and the procedure for selecting a representative to the Council. Prior to being seated, the tribal representative shall file with the Council a certificate of the appropriate tribal official stating that the representative was duly selected in accordance with tribal practice and usage. If satisfied that the tribal organization is representative of the tribe, and that the tribe's representative to the Council has been properly selected in compliance with the practice and usage of the tribe, the Council shall seat the tribal representative.

(Effective June 1, 1976)

Sec. 47-59b-6. Same; challenges

At the time a representative of a tribal organization requests to be seated at the Council, or any time thereafter, a member of the tribe for which the representative was selected, or any person aggrieved by an action of this Council, may challenge the authority of the tribal organization seeking to be seated to represent the tribe, or the validity of the process by which the representative of the tribe was selected. Upon receipt of such a challenge, the Council shall set a date for a hearing to be held and conducted in the same manner as hearings on contested applications for recognition of Indian status under these regulations. No representative shall take part in proceedings of the Council while under challenge. The burden of proof shall be on the challenger. If the Council determines that the tribal organization represents the tribe and that the challenged representative has been properly selected by the tribal organization, the Council will not entertain further challenges to the tribal organization or its representative except on a showing of substantial evidence different from that heard by the Council at the first challenge hearing. The burden shall

be upon the challenging party to show, by affidavit or document any evidence, that new evidence warrants a hearing on any subsequent challenge.

The Commissioner of Environmental Protection may, and in the event that more than one member are challenged simultaneously shall, designate one or more additional persons, who shall be Indians within the meaning of Sections 47-59a to 47-66 of the General Statutes, as amended, and not members of the tribal organization under challenge, to sit on the Council for purposes of hearing and determining the challenges. The panel shall consist of not less than seven persons, including the Council members whose credentials have not been challenged.

(Effective June 1, 1976)

Part II

Public Information

Sec. 47-59b-7. Policy

The policy of the Council is to make available for public inspection all files, records, documents and other materials within its possession, unless prohibited by law.

Geneological information shall be available only to parties in contested cases and when required for adjudication of a case before the Council.

(Effective June 1, 1976)

Sec. 47-59b-8. Complaints and requests for information

Complaints and requests for information should be addressed to the Council, at the address set forth in 47-59b-2 of these regulations.

(Effective June 1, 1976)

ARTICLE II

RULES OF PRACTICE

Part I

General Provisions

Sec. 47-59b-9. Procedure governed

These rules govern practice and procedure before the Council under the applicable laws of the State of Connecticut and except where by statute otherwise provided. Decisions of the Commissioner of Environmental Protection, acting on the advice of the Council as required by Sections 47-59a to 47-66 of the General Statutes, as amended, shall be governed by the regulations applicable to decisions of the Commissioner.

(Effective June 1, 1976)

Sec. 47-59b-10. Definitions

(a) "Council" means Connecticut Indian Affairs Council.

(b) "Tribe," except where otherwise indicated, means the Schaghticoke, Eastern Pequot, Western Pequot, Mohegan, or Golden Hill Tribes of Indians.
(Effective June 1, 1976)

Sec. 47-59b-11. Procedure for issuance, amendment or repeal of a regulation

(a) Proceedings for the issuance, amendment, or repeal of regulation may be commenced by the Council on its own initiative or pursuant to a petition submitted by an interested person.

(b) Notice of the proposed issuance, amendment, or repeal of a regulation will appear in the Connecticut Law Journal at least twenty days prior to the proposed action. The notice will contain: (i) a statement of the purpose of the proposed action; (ii) a statement of the time, date and place of the public hearing or other opportunity for the presentation of views; (iii) reference to the statutory authority under which the Council is acting; and (iv) a statement of the terms or substance of the intended action.

(c) Adequate publicity will be provided by the Council to assure that all interested parties have notice of the time, date and place of the public hearing or other opportunity for the presentation of views. The purpose is to afford an opportunity for all interested parties to participate in the proceedings through the submission of written or oral data, views, arguments, or suggestions.

(d) The action of the Council concerning issuance, amendment or repeal of regulations will be forwarded to the Commissioner for adoption, and then to the Attorney General and to the Legislative Review Committee of the General Assembly for approval, as required under Sections 4-169 and 4-170 of the General Statutes.

(e) The new regulation or the amendment or repeal of an existing regulation will become final following approval by the Attorney General and the Legislative Review Committee and certification thereof to the Secretary of State.

(f) When the Council finds that an imminent peril to the public health, safety, or welfare so requires, it may adopt emergency regulations, as provided in Section 4-168 (b) of the General Statutes.
(Effective June 1, 1976)

Sec. 47-59b-12. Computation of time

Computation of any period of time referred to in these rules begins with the first day following that on which the act which initiates such period of time occurs. The last day of the period so computed is to be included unless it is a day on which the office of the Council is closed, in which event the period shall run until the end of the following business day.
(Effective June 1, 1976)

Sec. 47-59b-13. Extensions of time

At the discretion of the Council, for good cause shown, any time limit prescribed or allowed by these rules may be extended insofar as such extension is not precluded by statute. All requests for extension should be made before the expiration of the period originally prescribed or as previously extended. The Council shall notify all parties of the department's action upon such motion.
(Effective June 1, 1976)

Sec. 47-59b-14. Consolidation

Proceedings involving related questions of law or fact may be consolidated at the discretion of the Council.
(Effective June 1, 1976)

Sec. 47-59b-15. Return for incompleteness

Any application or petition may be rejected by the Council if it is incomplete or otherwise inadequate to permit processing or disposition thereof. Action under this section is without prejudice and is not a final decision by the Council. Nothing in this section shall restrict the Council from requiring additional information from an applicant or petitioner if his application or petition is accepted.
(Effective June 1, 1976)

Part II

Formal Requirements

Sec. 47-59b-16. Office

The principal offices of the Council is in the State Office Building, Room 248, 165 Capitol Avenue, Hartford, Connecticut 06115. The offices of the Council are open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and legal holidays.
(Effective June 1, 1976)

Sec. 47-59b-17. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications and any other documents governed by these rules, shall be deemed to have been filed or received on the date on which they are issued or received by the Council at its principal offices.
(Effective June 1, 1976)

Sec. 47-59b-18. Identification of communications

Communications should embrace only one matter, should contain the name and address of the communicator and the subject of the communication.
(Effective June 1, 1976)

Sec. 47-59b-19. Signatures

Every application, notice, motion, petition, complaint, brief and memorandum shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective June 1, 1976)

Sec. 47-59b-20. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except as may be otherwise required by these rules or by any other rules or regulations of the Council or ordered or expressly requested by the Council, at the time motions, petitions, applications, documents or other papers are filed with the Council, there shall be furnished to the Council an original of such papers. In addition to the original there shall also be filed one copy unless a greater or lesser number of copies is expressly requested by the Council.

(b) **Form.** Except for such forms as may from time to time be provided by the council and used where appropriate, motions, petitions, applications, documents or other papers filed for the purpose of proceeding before the Council shall be printed or typewritten and, where possible, on paper cut or folded to either letter or legal size, 8 to 8½ inches wide. The impression shall be on only one side of the papers, unless printed, and shall be double spaced, except that quotations in excess of five (5) typewritten lines shall be single spaced and indented. Mimeographed, multigraphed, photoduplicated or the like copies will be accepted as typewritten, provided all copies are clear and permanently legible.

(c) **Filing.** All papers relating to matters requiring action by the Council shall be filed with the Council, State Office Building, Room 248, 165 Capitol Avenue, Hartford, Connecticut 06115.

(Effective June 1, 1976)

ARTICLE III

MEMBERSHIP IN TRIBES

Sec. 47-59b-21. Standards for determining membership

Membership determinations shall be made in accordance with the practice and usage of the tribe in which membership is claimed, and except as otherwise provided in these regulations persons whose names appear on the tribal rolls of the following tribes shall be considered Indians for purposes of Sections 47-59a to 47-66 of the General Statutes, as amended.

Eastern Pequot
Western Pequot
Schaghticoke
Golden Hill
Mohegan

Tribal representatives shall file certified copies of the following documents with the Council:

(1) The official membership roll of the Tribe;

(2) The practice and usage of the tribe concerning membership, including a description of procedures and the kinds of evidence admissible to prove membership in the Tribe.

These documents shall be kept on file in the office of the Council and shall be made available to persons seeking recognition as Indians under Sections 47-59a to 47-66 of the General Statutes, as amended.

(Effective June 1, 1976)

Sec. 47-59b-22. Application for recognition of Indian status: contents

All applications for recognition of Indian status under the Statute shall set forth the tribe in which the applicant claims membership. If an application is supported by affidavits, the same shall be made under oath and penalty of perjury, shall be on personal knowledge, shall set forth the qualifications and competancy of the affiant to testify on matters of tribal membership, and shall fairly summarize the testimony which the affiant is prepared to give in support of the application.

(Effective June 1, 1976)

Sec. 47-59b-23. Same: decision of tribe: certification by council

The application shall be referred to the appropriate tribe for consideration in accordance with the standards and procedures on file with the Council. If the applicant appears and testifies before the tribe in support of his application, or if witnesses are heard for or against the application, the tribe shall make a tape recording of the proceedings before it. The decision of the tribe concerning application for membership shall be in writing, shall set forth the reasons therefore, and shall be lodged with the Council. Upon receipt of the tribe's decision the Council shall promptly notify the applicant, supply him with a copy of the tribe's determination and advise him that unless the decision of the tribe is protested within thirty days from receipt of the notice, the decision of the tribe shall be certified by the Council. Upon certification, the decision of the tribe shall be final and binding upon all parties.

(Effective June 1, 1976)

Sec. 47-59b-24. Same: objection to certification

Any person who would be aggrieved by certification of a decision of a tribe respecting his membership may protest the tribe's decision to the Council and request a hearing to be scheduled for the next regular meeting of the Council, or at such time as shall be stipulated to by the applicant and the tribal council whose decision is

protested. The Council shall promptly notify the tribe, which shall certify the record of the proceedings before it. The record shall consist of the decision of the tribe, all affidavits and documentary evidence submitted in support of the application, and a tape recording of the proceedings, if any before the tribe.

(Effective June 1, 1976)

Sec. 47-59b-25. Certification hearing; procedure

At the hearing, both the applicant and the tribe whose decision is protested may be represented by counsel employed at their own expense. The Chairman of the Council shall preside at the hearing unless the Chairman is a member of the tribe whose decision is protested, in which case the Vice-Chairman shall preside. Members of the Council may ask questions of the parties and may examine all evidence. A member of the tribe whose decision is challenged may examine the parties and the evidence, but shall disqualify himself from voting.

(Effective June 1, 1976)

Sec. 47-59b-26. Same; scope of review

Consideration by the Council shall be based on the record submitted to the tribe, and evidence not submitted to the tribe shall not be considered by the Council, except that if the decision is challenged on the ground that the person or persons making the membership determination does not represent the tribe, the proceeding shall be treated in the same manner as a challenge to the tribal representative under 47-59b-6 of these regulations and the Council may hear all evidence relevant to the authority of the tribal organization to represent the tribe.

For good cause shown, the Council may remand an application to the tribe for consideration of new evidence.

(Effective June 1, 1976)

Sec. 47-59b-27. Same; burden of proof

The burden shall be upon the applicant to establish by a preponderence of the evidence that he is entitled to membership in the tribe under the practice and usage of the tribe. Upon such a showing the Council, by majority vote, shall direct the tribe to add the applicant's name to the rolls of the tribe.

If the applicant establishes by a preponderance of the evidence that the tribe excluded evidence, or failed to follow appropriate procedures, the dispute shall be remanded to the tribe for further proceedings consistent with the findings of the Council.

(Effective June 1, 1976)

Sec. 47-59b-28. Certification in the absence of protest

Any member of the Council may challenge any decision made by a tribe concerning membership. Upon such

a challenge, the Council shall designate one or more of its members to act as a committee to examine the record of the proceedings before the tribe and report back to the Council. The Council shall act upon the recommendation of the committee, and may either certify the decision of the tribe or set a date for a hearing to be held in accordance with these regulations.

(Effective June 1, 1976)

ARTICLE III

ELIGIBILITY TO RESIDE ON INDIAN RESERVATIONS

Sec. 47-59b-29. Residence on reservation

Any member of the Eastern Pequot, Western Pequot, Mohegan, Schaghticoke or Golden Hill Tribe is eligible to reside on the reservation assigned to the use of his respective tribe. The tribe to whom a reservation is assigned shall decide which of its members may reside on the reservation of the tribe, and the decision of the tribe shall not be reviewable by the Council.

(Effective June 1, 1976)

Sec. 47-59b-30. Intrusion by non-members

No person who is not a member or the spouse or child of a member of a tribe for which a reservation is set apart may take up residence or go upon the reservation without the written permission of the tribe.

(Effective June 1, 1976)

TABLE OF CONTENTS

INDIANS AND INDIAN RESERVATIONS

Residence on a reservation 47-65-1

Building on a reservation 47-65-2

Repairs and improvements to existing buildings 47-65-3

Buildings become part of tribal reservations 47-65-4

Assistance to needy tribal members 47-65-5

Use of Indian reservation 47-65-6

Eviction for cause 47-65-7

INDIANS AND INDIAN RESERVATIONS

Sec. 47-65-1. Residence on a reservation. An Indian, as defined by statute, desiring to reside on his tribal reservation shall make application in writing to the welfare commissioner. He shall not take up residence on such reservation until written approval of the commissioner has been granted. Any Indian granted written permission to reside permanently or seasonally on a tribal reservation who fails to live on such reservation for at least two months of any calendar year without good cause shall be deemed to have abandoned his residency thereon at the end of any such calendar year, and may not return thereafter to live on such reservation without further written approval of the welfare commissioner.

(See 1961 Supp. §47-63.)

Sec. 47-65-2. Building on a reservation. No tribal member shall erect, or cause any building to be erected, upon a reservation without written approval of the welfare commissioner. Any tribal member desiring to erect a building upon his tribal reservation shall make application in writing to the welfare commissioner and shall furnish suitable plans and specifications, as well as evidence of financial ability to complete such building. The site on which any building is to be erected will be set out and approved by the welfare commissioner. Any building erected on a reservation without written approval of the commissioner, or on any site which has not been approved by the commissioner, shall be subject to removal at the builder's expense at the discretion and direction of the welfare commissioner, or by the state upon the refusal or failure of the owner to remove it within sixty days of notice. If the state is required to remove such building, the builder shall be liable to the state for the cost of removal.

Sec. 47-65-3. Repairs and improvements to existing buildings. No person shall make any repairs or improvements to an existing building without the written approval of the welfare commissioner. Any person desiring to repair or improve an existing building shall make application in writing to the welfare commissioner and shall furnish suitable plans and specifications, as well as evidence of financial ability to complete such project.

Sec. 47-65-4. Buildings become part of tribal reservations. All buildings erected upon a tribal reservation by a tribal member shall be subject to the care, control and management of the welfare commissioner and, unless authority for future removal has been given by the welfare commissioner at the time of erection, shall be considered affixed to and a part of the reservation.

Sec. 47-65-5. Assistance to needy tribal members. To be eligible to receive assistance from the tribal fund or from the "Aid to Indians" appropriation, a person must be (1) a tribal member; (2) a bona fide fulltime resident of a tribal reservation; (3) without sufficient means to support himself on a reasonable standard of health and decency and with no spouse, child or children able to support him; (4) ineligible to receive public assistance.

Sec. 47-65-6. Use of Indian reservation. The Indian reservations shall be held for the use of tribal members only. Indians residing on the reservations shall maintain their homes and land adjacent to them in a sanitary and clean condition. The accumulation of rubbish, junk, garbage and other refuse in or around the premises occupied by them or on the reservation itself is prohibited. All such waste material shall be removed by the occupants of the various premises. No resident may cut

timber or wood on the reservation except that needed by the tribal member for his own use in heating or cooking. No Indian shall commit a nuisance or illegal act on any reservation.

Sec. 47-65-7. Eviction for cause. Any Indian entering upon a reservation or building thereon without written permission of the welfare commissioner, or any Indian discarding or permitting refuse, rubbish or junk to accumulate around his premises after warning, or who uses the premises or reservation for any illegal act, shall be evicted from the reservation.

February 2, 1989

2507

NATIVE AMERICAN HERITAGE AND ARCHAEOLOGICAL PRESERVATION ACT

1. Findings and Purposes

A. The Legislative Task Force on Indian Affairs and the General Assembly find that:

1. The heritage of Connecticut's Native Americans - represented by innumerable archaeological sites, countless burials and other sacred sites, and in oral traditions - comprises a long and irreplaceable record of Indian occupation and settlement, of the existence of rich and complex societies in the past, and of the continued presence of these people and their cultures in the present day. Native Americans have been on these lands from days beyond history's record, far past memory and scientific fact; they and their ways are still here.

2. The State of Connecticut and many of its citizens are not adequately aware of the irreplaceable values of the heritage, traditions, and histories of the Native Americans and other peoples who once lived here and who live here now.

3. There is no comprehensive or systematic policy to recognize, preserve, or protect aspects of this Native American heritage. Further, existing state laws and regulations, and those of local municipalities, do not provide adequate protection to prevent the loss or disturbance of archaeological sites from uncontrolled excavations and pillage or their destructions during activities undertaken, funded, or permitted by state programs and policies.

B. Therefore, the purposes of this act are:

1. To declare a public trust in the heritage, traditions, and archaeological sites of Connecticut's Native Americans and other peoples.

2. To require state agencies to evaluate and clarify current programs, policies, and regulations and, if needed, to create new ones to protect and enhance this trust.

3. To gain a sensitivity to the traditional values and sacred beliefs integral to past and present Native American cultures.

II. Definitions

As used in this act.

A. The term Native American means all those people who occupied Connecticut in prehistory as well as their historic descendants, together with all resident Indians of recognized Connecticut tribes (Sec. 47-59a, 47-63) and all members of other tribes recognized by the United States (see 25 CFR Part 54) or Canada who are residents of Connecticut.

B. The terms archaeological site or artifact mean any material remains of past human life or activities which are of archaeological interest, as determined under regulations adopted pursuant to this act. Such remains shall include, but not be limited to: pottery, basketry, bottles, coins, weapons, stone implements, structures or portions of structures, rock paintings and carvings, or graves or human skeletal materials. Archaeological sites include the material remains of Native Americans as well as all of Connecticut's other racial and ethnic groups. No item shall be treated as an archaeological site or artifact unless such item is at least 50 years of age. Paleontological specimens are not to be considered archaeological artifacts unless found in an archaeological context.

C. The term archaeological investigation means any surface collection, subsurface tests, excavation, or other activity that results in the disturbance or removal of artifacts or data from an archaeological site.

D. The terms sacred site or sacred lands means any space that is of ritual significance or traditional importance in the culture and religion of the state's Native Americans. Such spaces include marked and unmarked human burials, burial areas and cemeteries; monumental geological or natural features with sacred meaning or ones that are central in a group's oral traditions; sites of ceremonial structures including sweat lodges; rock art sites; sites of great historical significance to a Connecticut tribe; or routes through which Indians have traveled as part of their creation. Some archaeological sites may also be sacred sites.

E. The term sacred object means any archaeological artifact or other object associated with a sacred site.

F. The term Native American heritage means all archaeological and sacred sites, artifacts, sacred objects, oral traditions, histories, beliefs and values associated with the Native Americans of Connecticut - past, present and future.

G. The term state lands means lands which are owned, leased, or administered, or in the custody or control of any agency, department, or instrumentality of the State of Connecticut. The term includes, but is not limited to, lands which are part of state parks and forests; coastal resources [Sec. 22a-93(7)] such as shorelines, tide lands, and submerged lands;

H. The term person means an individual, corporation, partnership, trust, institution, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the State of Connecticut or any of its political subdivisions thereof.

III. State Policy and Responsibilities Concerning Native American Heritage and Archaeological Resources

A. Declaration of policy - It is hereby found and declared that there is a public trust in all of the archaeological sites situated on state lands in Connecticut, as well as in the heritage, and traditions of all of the state's peoples and cultures, past and present. The state shall improve and coordinate plans, programs, and policies, in cooperation with local governments, public and private organizations, and concerned individuals, in order to manage and preserve this trust for present and future generations.

1. The responsibility and care for the public trust in the Native American heritage - including prehistoric and historic archaeological sites and sacred lands - is shared with the state's Native Americans. An advisory council on Native American heritage shall be appointed by the state archaeologist and consist of 11 members including representatives from each of the 5 Connecticut tribes, the Indian Affairs Council and the Office of Indian Affairs (Department of Environmental Protection); a member of the Board of the Archaeological Society of Connecticut; and additional individuals knowledgeable in Native American history, traditions, and archaeology. This advisory council shall work with the state archaeologist and the Connecticut Historical Commission to develop, review and implement the specific policies and procedures established in this act.

B. Reviews and responsibilities of state agencies - Before July 1, 1990, each state department, institution, or agency shall review its policies and practices to insure that they are consistent with the state's responsibilities as set forth. This review shall include an evaluation of programs and practices which significantly affect the public trust in the heritage, traditions and archaeological resources of Connecticut's Native Americans and other peoples.

1. The Connecticut Historical Commission, in consultation with the state archaeologist and the advisory council, shall develop and adopt regulations relative to recognizing and preserving sacred sites (including cemeteries), lands, and natural features significant to the heritage, traditions, and values of the state's Native Americans. The State Register of Historic Places, and the definition of historic structures and landmarks (Section 10-321a) shall be expanded to include such sites.

2. On or before January 1, 1991, the Connecticut Historical Commission shall; in cooperation with the state archaeologist, the advisory council, the Office of Indian Affairs (Department of Environmental Protection), and the Connecticut Indian Affairs Council; develop a specific plan to compile an inventory of Native American burial sites and cemeteries in Connecticut. This plan shall include procedures to make such inventory available to state departments and agencies (Section 47-66e).

C. The Office of Archaeology at the State Museum of Natural History, together with the state's native peoples, declares a public trust to all the artifacts found and data gathered during archaeological investigations on state lands in Connecticut. The Office of Archaeology is designated as the official state repository for all such collections and records and is responsible for maintaining this trust for the benefit of present and future generations.

1. The State Museum of Natural History shall develop and adopt regulations and a comprehensive collections policy which will include procedures for:

a. Accessioning materials and accepting gifts appropriate to the public trust defined above.

b. Preserving, caring for, and displaying sacred objects important to the Indian peoples of New England.

c. Permitting Native Americans access to such sacred objects for religious and ceremonial purposes.

d. Reviewing requests to loan or transfer sacred objects and other materials - including archaeological artifacts - to Native American museums or other institutions.

2. This policy shall be formulated and approved by the Board of Directors of the State Museum of Natural History on or before July 1, 1990.

IV. State Archaeological Preserves

A. The Connecticut Historical Commission may itself, or in coordination with the Office of Archaeology at the State Museum of Natural History and the advisory council, the Connecticut Indian Affairs Council, and the Office of Indian Affairs (Department of Environmental Protection); examine certain sites or lands in the state to determine whether such areas are of state or national archaeological importance [see Section 10-321 (b) (4)] or of significance to the heritage of Connecticut's Native Americans. Upon the written recommendation of the state archaeologist and the advisory council, such areas shall be designated State Archaeological Preserves. No site may be so designated without:

1. The written consent of the property owner for private lands or for lands owned by local municipalities. Or,

2. In the case of state lands, written certification indicating that the appropriate state agency has been notified of the intent to designate a preserve on lands under its custody or control.

B. Upon designation, no person may conduct archaeological investigations, initiate construction or demolition activities, or undertake any other activity which would endanger a preserve's archaeological integrity or sacred importance, without complying with the provisions of Section V below.

C. Notice of designation shall be recorded by the appropriate town official in the registry of deeds in the town where such state archaeological preserve is situated.

D. The Connecticut Historical Comission; in coordination with the state archaeologist, the advisory council, appropriate state agencies, and other persons, shall develop and adopt regulations for the creation, care, use, and management of lands within state archaeological preserves.

E. When acquiring land for the state's recreation and natural heritage trust program (Sections 23-73 to 23-79, inclusive), the Commissioner of Environmental Protection shall consider as additional criteria (Section 23-75) whether the land contains sacred sites important to the heritage of Connecticut's Native Americans or archaeological sites of state or national importance.

V. Evaluation Documents and Research Permits

A. All state departments, institutions, or agencies shall review, in coordination with the Connecticut Historical Commission, their policies and practices to ensure that state funded, assisted, licensed, or permitted projects and programs are consistent with the preservation and study of the state's archaeological sites or Native American heritage.

1. Each state department, institution, or agency shall file with the Connecticut Historical Commission an evaluation document which identifies projects and programs requiring detailed consultation to identify and protect archaeological sites or properties of importance to the heritage of Connecticut's Native Americans.

2. Written evaluations of the environmental impacts of proposed projects and programs, as prepared under state laws (Section 22a-1b) or the requirements of the subsection above, shall include a description of the effects of the proposed action on significant archaelogical sites, or sacred sites important to Connecticut's Native Americans.

a. The Connecticut Historical Commission shall develop and adopt regulations to ensure that adequate archaeological investigations are undertaken when proposed projects or activities may affect significant archaeological sites, or sacred sites important to Native Americans.

3. The Connecticut Historical Commission may, in coordination with each state department, institution, or agency, inventory all state lands in order to identify sites, lands, and features of archaeological significance or importance to the heritage of Connecticut's Native Americans.

B. The Connecticut Historical Commission and the State Archaeologist reserve the exclusive right and privilege of archaeological investigation on state lands as well as on all lands designated as state archaeological preserves.

1. Any person may apply to the Connecticut Historical Commission for a permit to conduct archaeological investigations on state lands or state archaeological preserves. The application shall contain information the Connecticut Historical Commission, after consultation with the state archaeologist and advisory council, deems necessary. This information will include, but not be limited to the time, scope, location, and specific purposes of the proposed research. The Connecticut Historical Commission shall develop and adopt regulations regarding the issuance of permits to conduct archaeological investigations.

2. A permit shall be issued pursuant to an application, provided that no known Native American cemeteries, burial sites, or other sacred sites will be disturbed without the explicit review of the advisory council.

3. If human burials are encountered in the undertaking of an archaeological investigation permitted under this section, the procedures outlined in Section VI below shall apply. The applicant will bear the financial responsibility for the reburial of human skeletal remains, and associated artifacts, as determined by regulations developed by the state archaeologist.

4. The Connecticut Historical Commission, in coordination with the Office of Archaeology, may waive or abridge provisions of this section in an emergency in which artifacts and other significant data are found in the course of construction or demolition or in other situations in which time is limited.

5. The use of metal detectors or similar remote sensing devices is prohibited on state lands, or within a state archaeological preserve, except:

   a. The Commissioner of Environmental Protection may adopt regulations pursuant to Chapter 54 allowing the recreational use of such devices on land under her control, when she determines that the public trust will not be harmed by such use;

   b. A permit issued pursuant to Section V.B.2. may authorize use of such devices as a component of an archaeological investigation.

6. Any permit issued under this section may be suspended by the Connecticut Historical Commission upon the determination that the permittee has violated any provision of subsections A, B, C, or D of section VII of this act. Any such permit may be revoked upon the permittee's conviction under Section VII of this act.

VI. Native American Cemeteries, Burials, and Unmarked Human Skeletal Remains

A. Discovery of and jurisdiction over human skeletal remains

1. Any person knowing or having reasonable grounds to believe that any human burials or human skeletal remains are being disturbed, destroyed, defaced, removed, or exposed on any lands in Connecticut shall notify immediately, the chief medical examiner and the state archaeologist.

2. If human burials or human skeletal remains are encountered as a result of construction, agriculture, archaeological, or any other activity that alters, destroys, or otherwise impairs the integrity of such remains; that activity shall cease immediately and shall not resume without authorization from both the chief medical examiner and the state archaeologist.

3. If human skeletal remains are encountered during any archaeological investigation, the project archaeologist shall immediately notify the state archaeologist and the chief medical examiner. Excavation in the immediate vicinity of the remains must cease. Within 48 hours, the project archaeologist shall report opinions about age, biological characteristics and cultural affiliation to the state archaeologist.

4. The chief medical examiner shall conduct an inquiry as soon as possible to determine whether any discovered remains represent a human death which is subject to investigation as defined by the powers and responsibilities of that office (Section 19a-406). If during this investigation, the remains are (a) thought to be Native American, or (b) found to be subsurface and more than fifty years old, the medical examiner shall notify the state archaeologist. The state archaeologist shall then immediately take charge of the site, preserve all the remains and associated objects in-situ and seek the advice of the advisory council on Native American heritage and the Office of Indian Affairs (Department of Environmental Protection).

B. Preservation of sacred sites and other burial sites

1. Within 72 hours of discovery, the state archaeologist, the advisory council, and the Office of Indian Affairs (Department of Environmental Protection), together with the land owner and other archaeologists (where appropriate), shall determine whether the site can be preserved in-situ and protected through a preservation restriction (Section 47-42a). Human remains should not be disinterred unless they are in danger of destruction as the result of land disturbance, erosion, inundation, vandalism, or related threats. In every case, preservation is the preferred strategy in protecting all burial sites including those associated with Connecticut's Native Americans.

2. Any Native American burial site which can be preserved will be considered a sacred site and designated a state archaeological preserve.

C. Written agreements and the archaeological investigation of human skeletal remains and burial sites.

1. If in-situ preservation is not prudent and feasible, a written field agreement will be prepared, providing for the immediate reburial of the remains at another location or for the conducting of additional archaeological investigations and scientific analyses, prior to reburial. Such field agreements will be prepared by the state archaeologist after consultation with landowners and, where appropriate, project archaeologists, the advisory council, and the Office of Indian Affairs (Department of Environmental Protection). These written agreements will be filed with the state archaeologist.

2. If additional archaeological investigations of human skeletal remains discovered during non-archaeological activities are to be conducted, then the state archaeologist shall excavate and recover these materials with the approval of the advisory council and the Office of Indian Affairs (Department of Environmental Protection).

a. The state archaeologist shall have no more than five full business days, following notification from the chief medical examiner, to excavate and recover remains, unless otherwise permitted by the land owner.

3. Skeletal remains discovered during archaeological research will be excavated by the principal project archaeologist, under the supervision of the state archaeologist. In all situations, the methods to be used and data to be collected will be specified in each written agreement. Care should be taken during the excavation, subsequent transport, and storage of skeletal remains to insure that the sacred meanings of the materials for Native Americans are respected and protected.

4. The provisions of this section shall not require that the owner of private lands on which skeletal remains are found, to pay the cost of excavation, removal, analysis, or reburial. However, any person will be responsible to share such costs if that person is undertaking, permitting, or allowing others to undertake activities which alter, destroy, or impair the integrity of such remains.

5. Section 47-66f of Chapter 824 of the General Statutes is repealed.

D. The disposition of human skeletal remains after excavation

1. The state archaeologist shall, after consultation with the Connecticut Historical Commission, the advisory council, The Office of Indian Affairs (Department of Environmental Protection) and the archaeological community develop and adopt regulations regarding the storage, analysis, and disposition of all human skeletal remains recovered from any lands in Connecticut.

a. These regulations shall indicate that all Native American remains discovered subsequent to this act shall be reburied. The organization of each reburial ceremony, including the selection of an appropriate site for reburial, will be the joint responsibility of the state archaeologist, the advisory council, and the Office of Indian Affairs (Department of Environmental Protection).

b. These regulations shall also describe procedures for the storage, analysis, and reburial of all human skeletal remains which are not Native American in origin.

E. The Commissioner of Environmental Protection shall designate state lands for use in the future as sites where Native American remains may be reburied. All such present and future sites are sacred lands and will be designated as state archaeological preserves.

F. The provisions of sections 7-67 and 7-69 of the General Statutes shall not apply to the removal and reburial of the contents of Native American cemeteries or burial sites, or other burial sites in accordance with the provisions of this section.

VII. Prohibited Acts and Criminal Penalties

A. No person may excavate, remove, damage, or otherwise alter or deface any archaeological or sacred site on state lands or within a state archaeological preserve unless such activity is pursuant to a permit issued under Section V-B of this act, or the exception contained in Section V-B4 of this act.

B. No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, exchange, transport, or receive any archaeological artifact collected, excavated, or otherwise removed from state lands or a state archaeological preserve, in violation of subsection A above.

C. No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, exchange, transport, or receive any human remains collected, excavated, or otherwise removed from state lands or a state archaeological preserve, in violation of subsection A above.

D. No person may intentionally desecrate, disturb, or alter any Native American burial, sacred site, or cemetery (including any associated sacred objects) anywhere in Connecticut, unless that activity has been expressly permitted or otherwise authorized by the Connecticut Historical Commission and the state archaeologist, as specified in sections V-B and VI-C above.

E. Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate any prohibition contained in subsection A, B, C, or D of this section shall, upon conviction, be fined not more than $_____or imprisoned not more than _____, or both. In the case of a second or subsequent such violation, upon conviction such person shall be fined not more than $_____or imprisoned not more than _____, or both.

F. The prohibitions contained in this section shall take effect on October 31, 1989.

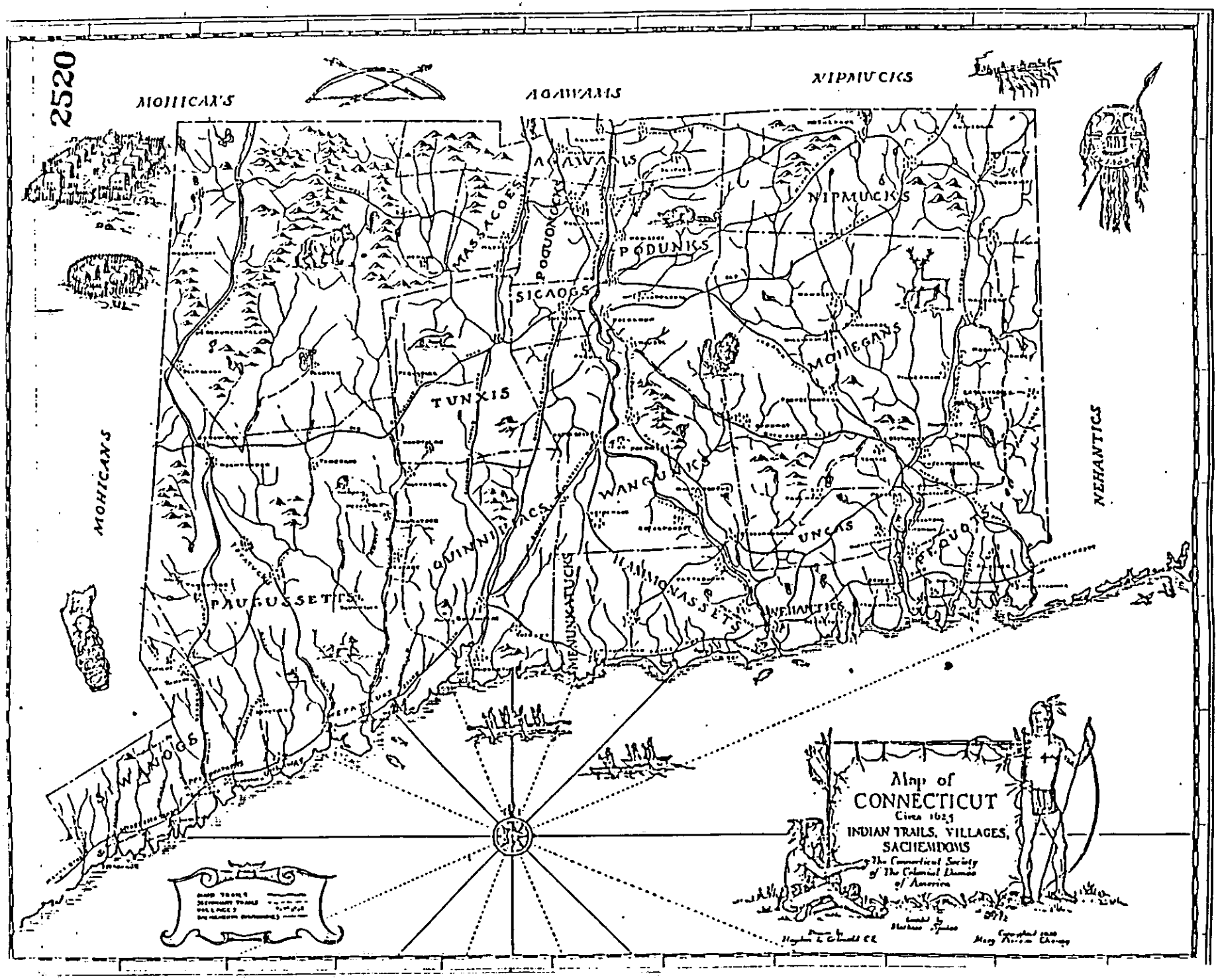
G. Nothing in subsection A, B, or C of this section shall be deemed applicable to any person with respect to any archaeological artifacts which were in the lawful possession of such person prior to October 31, 1989.

VIII. Civil Penalties and Forfeiture

A. Any person who violates any provision of this act or regulations issued in accordance with the provisions of this act, shall forfeit to the state a sum not to exceed _____dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct offense. The Attorney General, upon request of the Connecticut Historical Commission, shall institute a civil action to recover such forfeiture.

B. All archaeological artifacts with respect to which a violation of Section VII above has occurred, and all vehicles and equipment used in connection with such violation, shall also be subject to forfeiture to the State of Connecticut.

2520


MOHICANS
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MOHEGANS
TUNXIS
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PAUGUSSETS
MEAUNSKATUCKS
HAMMONASSETS
NEHANTICS
WINOGS
Map of
CONNECTICUT
Circa 1625
INDIAN TRAILS, VILLAGES,
SACHEMDOMS
The Connecticut Society
of The Colonial Dames
of America

cassette 1A
pg 3
line 1

2521

Legislative Taskforce on Indian Affairs
Testimony presented to the Environment Committee
March 20, 1989

Eleven years ago I came to Connecticut to become the Indian Affairs Coordinator at the Department of Environmental Protection and to work as liasion with the five indigenous Indian Tribes. My service assisted in the passage of several significent legislative bills among which was the addition of landbase for one Tribe and the protection of Indian burials on State lands. My tenure was cut short by the Appropriations Committee eliminating funds for that position. I accepted another position within State service and continued my involvement in Indian Affairs to this date and subsequent appointment to the current Taskforce. During these years, I have seen the economic and political environments change substantially, but the problems inherent in Connecticut's State and Tribal relations have remained unsolved. Special Act 87-103 was proposed as a first step in designing solutions to these long standing problems by the Tribes, knowlegeable individuals, adminstrative agencies and members of the Legislature. You have before you the results of our combined first effort, which includes a request for an additional year to complete our effort.

This Act strives to recognize the public trust in Connecticut's past and present heritage and to enhance such trust, to gain a sensitivity to Native American cultures and to increase the cooperation of various State agencies to manage and preserve this trust for the present and future generations. Indian history is the major portion of Connecticut's heritage, and that history is contained primarily in the archaeological record which has been the major study of archaeology, both nationally and in Connecticut. Development, construction, and curiosity seekers with shovels reduce Connecticut's irreplaceable archaeological record in excess of 100 sites, annually. The members of the Taskforce are the advocates for the protection and preservation of the archaeological resources so vital to the ethnohistory of Connecticut Indians and the heritage of all citizens of Connecticut. Further, the Taskforce seeks to address the long standing erosion of Connecticut Indian heritage and to prevent the continuing destruction of the record of that heritage. We urge each member of the Committee to protect and presere Connecticut's irreplaceable heritage in this public trust for our present and future generations.

Mikki Aganstata
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Member, Legislative Taskforce on Indian Affairs

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3-20-89

March 20, 1989

Subcommittee on Environment
Connecticut General Assembly

Re: Bill No. 7479 (An Act Implementing the Recommendations of the Task Force on Indian Affairs)

Dear Committee Members:

I am an Assistant Professor of Anthropology at the University of Connecticut and serve on the Governor's Task Force on Indian Affairs as the Governor's appointee for Archaeology. One of the mandates of the Task Force was to study and make recommendations concerning the state's responsibilities for Native American sites and remains. I would like to address my comments to those portions of the bill which deal specifically with the preservation of Native American cultural heritage.

Connecticut has a rich and varied cultural heritage, reflecting contributions by a number of cultural traditions and ethnic groups. We see reminders of this heritage all over the state, in churches, rural farming communities, 18th-century dwellings, and 19th-century industrial sites. These structures, however, reflect only a relatively small portion of Connecticut's heritage: the last 350 years of Euro-American settlement and industrialization. Of the 28,000 sites in the state listed in the National Register of Historic Places, only 10 are Native American sites. The National and State Registers of Historic Places are a direct reflection of the kinds of sites and places we consider historically significant. The problem lies not only in our perception of what is historically significant, but also in the extremely low visibility of sites associated with Native American culture and history. Connecticut has been continuously occupied by Indians for 10,000 years. The complexity and richness of this occupation is reflected in the archaeological record, yet archaeological sites and places associated with this occupation are disappearing at an alarming rate, over 200 a year. The purpose of this bill is, in part, to identify and protect an important part of Connecticut's shared cultural heritage.

I am aware that there are some objections to this bill, in particular by some state agencies. However, in the last two weeks, members of the Task Force have met with representatives from these agencies in an effort

to address their concerns, which are important. I believe that all of the parties concur on the intent of the legislation, and that these legitimate concerns can be incorporated into the bill in the next two weeks without compromising the intent of the bill. In fact, the state agency comments will assist in clarifying and strengthing the bill, making it an improved product.

Sincerely,

Kevin A. McBride

Kevin A. McBride
Assistant Professor

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Cassette 114 pg 3 line 19

2524

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114 EAST MAIN STREET
MERIDEN, CT. 06450

62 WASHINGTON STREET
MIDDLETOWN, CT. 06457

69 WALNUT STREET
NEW BRITAIN, CT. 06051

35 HUNTINGTON STREET
NEW LONDON, CT. 06320

98 SOUTH MAIN STREET
SOUTH NORWALK, CT. 06854

9 ELM STREET
ROCKVILLE, CT. 06066

20 SUMMER STREET
STAMFORD, CT. 06901

185 SOUTH MAIN STREET
TORRINGTON, CT. 06790

65 CENTRAL AVENUE
WATERBURY, CT. 06702

902 MAIN STREET
WILLIMANTIC, CT. 06226

March 20, 1989

Committee on the Environment
Legislative Office Building
Hartford, CT 06106

Re: Raised Bill No. 7479 -- An Act Implementing the Recommendations of the Task Force on Indian Affairs

Dear Committee Members:

I represent the following members of the Native American community in working with the Task Force on Indian Affairs: Chief Big Eagle (Aurelius Piper) and Moonface Bear, of the Golden Hill Paugussett Tribe; Ray Geer, Paucatuck Eastern Pequot Tribe; Patricia Benedict, American Indians for Development; the Connecticut River PowWow Society, Inc.; Trudie Lamb Richmond; Mikki Aganstata; Sherman Paul; and Richard Harris. On behalf of these clients, I urge this Committee to pass Raised Bill No. 7479.

The first 19 sections of the bill comprise the Native American Heritage and Archaeological Preservation Act. It is creative and comprehensive in its protection of Indian burial and archaeological sites, yet does not interfere with the ability of others to develop their communities as they choose. I believe it could provides a model for many other states.

Sections 20 through 32 enact into state law several of the most critical principles of national Indian Law and clarify and recognize inherent powers of the indigenous Indian tribes that have too long been vague. The Act recognizes that tribes are self-governing entities with authority over their own membership, leadership and form of government, and reservation land. It provides a method for resolution of leadership and membership disputes that will take the burden off the Indian Affairs council and will be much more efficient for the tribes. The Act provides for appropriate tax exemptions for land and motor vehicles and makes explicit current state payments in lieu of taxes and for school children. Finally, it provides for individual tribal trust agreements with the state so that differences among tribes are accounted for and disparate needs met.

Section 32(a) lists the issues yet to be resolved and shows the need for an extension of the Task Force for another year (until February 1, 1990). A major concern will be the nature of the Indian Affairs Council and its duties and funding. Others will be the questions of criminal and civil jurisdiction on the reservations and what the state's duties should be with respect to them. The Task Force has accomplished a great deal and should be given the opportunity to finish its work.

Very truly yours,

Julia T. Bradley

Julia T. Bradley

Cassette 1A
line 13
P 4

2525

3-20-89

To: The Committee on the Environment

From: Attorney Julia T. Bradley for the Indian Affairs Task Force

Date: March 20, 1989

Re: Raised Bill No. 7479, AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON INDIAN AFFAIRS

The Task Force on Indian Affairs met on March 16, 1989 to review the text of Raised Bill No. 7479, which has been drafted based upon the Task Force's Report to the General Assembly. After reviewing the language of the bill, the Task Force submits the following amendments clarifying or correcting several of the drafted sections:

1. Sec. 20(b)--page 16, line 522.

   MEMBERSHIPS should be amended to read "MEMBERSHIP".

2. Sec. 20(b)(5)--page 16, line 524.

   (5) IMPOSE TAXES ON RESIDENTS OF RESERVATIONS . . . should be amended to read "(5) EXCEPT FOR THE GOLDEN HILL PAUGUSSETT TRIBE, IMPOSE TAXES ON RESIDENTS OF RESERVATIONS . . .".

3. Sec. 22(a)--page 16, line 533.

   GOVERNOR AND THE OFFICE OF THE SECRETARY OF STATE should be amended to read "GOVERNOR FOR FORWARDING TO THE OFFICE OF THE SECRETARY OF STATE".

4. Sec. 22(b)--page 16, line 540 through 543.

   EACH PARTY TO THE DISPUTE AND THE GOVERNOR SHALL APPOINT A MEMBER OF THE COUNCIL, PROVIDED THE PERSON APPOINTED BY THE GOVERNOR SHALL BE KNOWLEDGEABLE IN INDIAN AFFAIRS should be amended to read " EACH PARTY TO THE DISPUTE SHALL APPOINT A MEMBER OF THE COUNCIL AND BOTH PARTIES SHALL APPOINT A THIRD MEMBER, BUT IF THE PARTIES CANNOT AGREE, THE GOVERNOR SHALL APPOINT THE THIRD MEMBER, PROVIDED THAT THE PERSON APPOINTED BY THE GOVERNOR SHALL BE KNOWLEDGEABLE IN INDIAN AFFAIRS."

5. Sec. 23(a)--page 16, line 549, 550.

   AND A MEMBERSHIP ROLL WITH THE OFFICE OF THE SECRETARY OF STATE should be amended to read "AND A MEMBERSHIP ROLL UPDATED ANNUALLY WITH THE GOVERNOR FOR FORWARDING TO THE OFFICE OF THE SECRETARY OF STATE."

6. Sec. 23(b)--page 16, 17, line 554 through 557.

   EACH PARTY AND THE GOVERNOR SHALL APPOINT MEMBERS, PROVIDED THE MEMBER APPOINTED BY THE GOVERNOR SHALL BE KNOWLEDGEABLE IN INDIAN AFFAIRS should be amended to read
   "EACH PARTY TO THE DISPUTE SHALL APPOINT A MEMBER OF THE COUNCIL AND BOTH PARTIES SHALL APPOINT A THIRD MEMBER, BUT IF THE PARTIES CANNOT AGREE, THE GOVERNOR SHALL APPOINT THE THIRD MEMBER, PROVIDED THAT THE MEMBER APPOINTED BY THE GOVERNOR SHALL BE KNOWLEDGEABLE IN INDIAN AFFAIRS."

7. Sec. 25(a)--page 18, line 602.

   SHALL CONTINUE TO BE HELD IN TRUST TO PREVENT ALIENATION should be amended to read
   "SHALL CONTINUE TO BE HELD IN TRUST IN PERPETUITY TO PREVENT ALIENATION".

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Vol. 32, Pt. 8 Vol. 32, Pt. 9 Vol. 32, Pt. 31

HB 7479 (PA 368) 1989

Hse: 2672, 2888, 10886-10936, 13870-13874 (58)

Vol. 32, Pt. 39

Sen: 1067, 1165, 4185-4192 (10)

Vol. 32, Pt. 12

Vol. 32, Pt. 3

Vol. 32, Pt. 4

Env: 2388-2409, 2430-2436, 2440-2442, 2457-2526 (102)

Pt. 7

Pt. 7 Pt. 8 Pt. 8 170p

CITATIONS, legal

House	24 H.R. Proc., Pt. 10, 1981 Sess., p. -
Senate	26 S. Proc., Pt. 4, 1983 Sess., p. -
Hearings	Conn. Joint Standing Committee Hearings, Judiciary, Pt. 2, 1981 Sess., pp.-
Regulations	Regs., Conn. State Agencies § 31-40 (1986)