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New Jersey Committee on
Native American Community Affairs

REPORT TO GOVERNOR JON S. CORZINE

State of New Jersey
December 17, 2007

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FOREWORD AND ACKNOWLEDGMENTS

The New Jersey Committee on Native American Community Affairs presents Governor Jon S. Corzine with its report concerning issues confronting New Jersey's three indigenous Native American tribes and other New Jerseyans of Native American descent. We offer it with gratitude to be of service, with conviction that the recommendations offer respectful, pragmatic options to improve lives of all New Jersey citizens, especially those of Native American heritage, and with relief that the Governor's health has been restored.

The Governor expressed specific hopes for this report in his August 2006 Executive Order creating and charging the Committee. He wrote, "This Executive Order is the beginning of a new conversation and a renewed commitment to equality. New Jersey is one community with one future and even though we come from different cherished pasts, we all must have a voice in addressing the problems we share." He called for the Committee to listen to tribal members from the Ramapough Lenape Nation, who had raised serious concerns with him following the tragic shooting death of a tribal member, Mr. Emil Mann, as well as members from the Nanticoke Lenni-Lenape, and the Powhatan Renape tribes. The issues to be addressed included civil rights, education, employment, fair housing, environmental protection, health care, infrastructure and equal opportunity.

Our journey was longer and more complex than we expected. We visited sites and listened to tribal members, young and old, to identify root problems and pragmatic recommendations. We held 17 meetings, including two public hearings, and had numerous conversations, with local elected officials and law enforcement officers, state agency heads and their staffs, other states' and federal agencies and casino executives.

As with many reports, the mirror we turned on fellow citizens, government officials and ourselves was sobering. It reflects lingering discrimination, ignorance of State history and culture, and cynicism rather than shining celebration of the State's tribal members whose descendants have lived here peacefully and productively for more than 350 years. We were disappointed to learn that New Jersey lags behind rather than leads at least 15 other states, which recognize, respect and celebrate their tribal people through legislative, executive, or agency action. We were saddened that subtle even blatant discrimination still can thrive in New Jersey.

The Committee's single most important finding and recommendation is that a new State statute affirming the State's recognition of New Jersey's indigenous tribes and which creates State protection of burial grounds and artifacts will have enormous beneficial significance to tribal members who believe their ancestors have been disrespected in recent years. State recognition also triggers access to federal and private philanthropic resources not currently available to New Jersey citizens of Native American descent. Among the most urgent situations highlighted, is the need for intensified efforts to "clean up" and protect all residents living in and around the federally re-listed toxic waste

Superfund site in Ringwood, in Northern New Jersey. Other recommendations address specific issues and needs.

Many people contributed greatly to this report, including the citizens and officials who came out to public meetings and spoke from their hearts. Each Committee member participated fully and with complete integrity. They are former New Jersey Attorney General W. Cary Edwards, Dr. Henry Coleman, Professor, Bloustein School of Public Policy, Autumn Wind Scott, a leader in the Ramapough Lenape Indian Nation and member of the New Jersey Commission on American Indian Affairs, *Ex officio* members Secretary of State Nina Mitchell Wells, and Lewis Pierce, a senior tribal member of the Nanticoke Lenni-Lenape Tribe and Chair of the New Jersey Commission on American Indian Affairs. Megan Cordoma, DAG, New Jersey Division of Law and Public Safety, provided expert and tireless staffing for the Committee. Rowena Madden, Office of the Secretary of State, provided thoughtful advice, historical documentation and sensitivity to the many issues raised during the deliberations.

The Committee thanks especially Emily Goldberg, Esq., a Gibbons Fellow at Gibbons PC and her sponsor at the firm, Lawrence Lustberg, for providing invaluable *pro bono* legal research and analysis. We are grateful to Chief Justice Stuart Rabner who launched the Committee while serving as Governor's Counsel. Finally, we thank Ken Zimmerman, who served as the initial Chair before being appointed as Governor's Counsel, for his unflinching encouragement that the report be well researched and well reasoned, given the importance of the effort.

The Committee looks forward to the wide circulation of this report to New Jersey's citizens and to the thoughtful, hopefully positive, consideration by the Governor of its recommendations. We believe that there is much more to learn from the Native American influences on our State's history and culture. Continued discussion and action can only strengthen New Jersey's reputation as a state that encourages and supports rich cultural diversity.

Respectfully submitted,

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Co-Chair

Mariko Lockhart, MPA
Co-Chair

EXECUTIVE SUMMARY

Introduction

On August 4, 2006, Governor Jon S. Corzine signed Executive Order 24, which established the New Jersey Committee on Native American Community Affairs (hereafter referred to as “the Committee”). The panel was charged with the tasks of evaluating the social and economic conditions of the state’s Native American communities, focusing on issues such as civil rights, education, environmental protection, employment, fair housing, health care, and infrastructure.

The Committee engaged in extensive information gathering, including in-depth meetings and site visits with Native Americans in New Jersey, outreach to individual State agencies, public hearings, contact with other states regarding policies and programs for their indigenous Native Americans, meetings with local officials and business leaders, a review of books, reports, legislative history, and other relevant literature on Native Americans, and interactions with the New Jersey Commission on American Indian Affairs (the Commission). This outreach by the Committee identified and further refined the important areas of concern for Native Americans residing in the state.

A significant and often underestimated number of Native Americans reside in New Jersey. These individuals have a long and storied history of contributions to the culture and quality of life enjoyed by all residents of the state. However, Native-American residents of New Jersey have also experienced notable hardships over the years, ranging from benign neglect by the State to significant and direct threats to their physical and economic well being due to lack of timely and definitive actions by the State and other governmental entities. This report details these hardships, describes the Committee’s findings as to the scope and severity of the problems, and provides a set of recommendations for consideration by the Governor and State Legislature to address these concerns and to return the state’s Native Americans to the honored position within our society suggested by their legacy.

Major Issues Considered and Committee Recommendations

Immediately following is a summary of key recommendations of the Committee. The Committee has made a total of twenty-eight recommendations which are discussed at length in the Report, pages 71 through 79.

1. State Recognition

As the “original” Americans, American Indians have certain rights and privileges, some of which are bestowed by the national government and others are granted by individual state governments to their indigenous tribes. As such, it becomes an issue as to which tribes qualify for these various privileges and protections. Native American tribes must be acknowledged or recognized by the Federal government, or by their host State government, to be eligible for these benefits. Concurrent New Jersey legislative resolutions passed in 1980 and 1982 recognized three New Jersey Native American tribes

-- the Nanticoke Lenni-Lenape, the Powhatan Renape, and the Ramapough Lenape. However, the Committee identified two concerns in this area. First, New Jersey lags behind many other states that have recognized their indigenous tribes through legislation, resolution, executive order, or agency action. In addition, actions and communications by New Jersey State officials in communicating with Federal agencies have contributed to uncertainty and ambiguity about current State policy regarding the three tribes. This has resulted in the loss of millions of dollars of federal grant support for education, employment, health, and social services for the state's Native American residents. Moreover, it has imposed hardships on Native Americans who are not able to market their crafts and wares as authentic. In addition, Native American sacred lands (including burial grounds and worship areas) are not afforded the protections and tax-exempt status befitting their use.

As such, the Committee recommends that a three-stage legislative strategy be implemented to affirm and strengthen State-only recognition for New Jersey's three tribes -- the Nanticoke Lenni-Lenape, the Powhatan Renape, and the Ramapough Lenape tribes. This strategy consists of an Executive Order, legislative Resolution and new state legislation to strengthen the State Commission on American Indian Affairs, affirm the existence of the three tribal groups and state the intent to help them qualify for any federal benefits associated with State-only recognition. It is recommended that any recognition legislative action should include language disavowing and disclaiming any legislative intent to confer potential gaming rights to any named tribal group or to any individual or group of individuals and disavow any intent that such legislation or this report be used to support any application for formal federal Bureau of Indian Affairs recognition. The Committee recommends the legislation include protection of human remains, tribal burial plots, funerary objects and artifacts, and archaeological excavations. In addition, the Committee recommends that the State's Attorney General and the State Treasurer make recommendations for how the state should proceed in granting reasonable tax exemptions for tribal sacred lands, such as burial grounds and open-air worship areas.

2. Discrimination and Civil Rights

The Committee received reports that tribal members continue to experience discrimination and ridicule, simply for being Native Americans. Tribal members, especially in the areas where many Ramapough Lenape Indians reside, report being subjected to unwarranted police interventions, including traffic stops, personal searches, and occasional physical confrontation.

Therefore, the Committee recommends that the state take a series of proactive steps to better inform all residents and public workers in the state about the presence and contributions of Native Americans. This should include community relations efforts, the establishment of an annual Native American Heritage celebration, and the development of cultural competency training materials that would be made available to law enforcement officers, workers in other state and local agencies, and the general public.

Where instances of discrimination persist, a streamlined procedure for Native Americans to report such transgressions should be implemented.

3. Environmental Justice

A very serious and unresolved environmental issue is affecting the Ramapough Lenape Indian Nation. Specifically, the toxic Superfund Site in and around Ringwood, New Jersey has presented significant threats to the health and well being of Native Americans in the area. In addition, the problem has recently been compounded by the appearance of sinkholes, which have displaced tribal members from their homes, imposed significant financial hardships on these displaced individuals, and placed tribal members that still reside in the area at greater health and safety risks. This situation has been further exacerbated by the fact that while local, state, and federal government agencies are working with private companies to resolve the problems, no one seems to be in charge and responsible for coordinating the overall effort and keeping residents informed of developments.

The Committee recommends that the Governor appoint a high-level official within State government, preferably the Department of Environmental Protection, to coordinate and direct the remediation of the Superfund Site in Ringwood with the cooperation of a senior official from the US Environmental Protection Agency. In addition, the Governor should direct selected State agencies to work collaboratively to identify the health and safety needs of the Native American residents that are being adversely affected by the Superfund site. The State should develop a mechanism for health care costs, property damage, and the costs of relocation for families that have been adversely affected or displaced by the Superfund clean-up effort. Finally, the State should initiate a process to determine the legal action necessary to recover costs and damages experienced by the State from the Federal government related to the on-going, multi-year clean-up effort.

4. Inter-governmental Issues

The State government has more often been a cause for concern, rather than a cure for many of the difficult circumstances confronting Native Americans in New Jersey. There is not a uniform or coordinated way in which the various departments of State government collect statistical data to identify the state's Native Americans, and to determine their individual and/or collective needs. Moreover, the needs and concerns of Native Americans are not generally considered in pursuing federal funding opportunities or candidates for employment in State government. Perhaps most important, the Commission that was established to help deal with Native American concerns has been limited due to a lack of staffing and other resources, a limited mission, and a general lack of influence within State government.

Therefore, the Committee recommends that the Commission work with State agencies to develop a protocol for collecting information that provides ample flexibility for Native Americans to accurately reflect their heritage. Moreover, this information should be used by State agencies to actively recruit Native Americans for available job opportunities,

and to pursue available federal and foundation financial support for programs and activities with potential benefits to Native Americans. To fulfill this expanded role, the Committee recommends that the Commission membership be expanded to include additional cabinet-level agencies (including the Attorney General, and the commissioners of Children and Families, Community Affairs, Education, Environmental Protection, Health and Senior Services, Human Services, Labor and Workforce Development, and Personnel), an adequate budget and staffing be provided, and its mission be enhanced to include legal, law enforcement, and environmental justice issues. The Commission would also develop a protocol for making recommendations to the Governor and Legislature regarding future State recognition of American Indian tribes.

Additionally, the committee recommends modest annual state funding for each of the three tribal centers of the Nanticoke Leni-Lenape, Powhatan Renape, and Ramapough Lenape Nation.

5. Education

Native Americans of several generations have reported that they experienced bullying and harassment within the educational system. Additionally, the use of Native American images as mascots and logos has been viewed as an affront to Native heritage. They have had their heritage denied by individual teachers, and by an education curriculum that ignores their existence and their many contributions to the history and development of the state and the country. In general, New Jersey suffers from a lack of appropriate curricular materials to aid in the teaching of American Indian culture, history, and tribal life, especially in New Jersey. Finally, Native Americans are handicapped by a lack of financial support to pursue higher education and proper career counseling

The Committee recommends that the State's Commissioner of Education develop and implement a policy regulating the use of derogatory and offensive mascots and images by local schools in the state. Moreover, a "no tolerance" policy regarding bias crimes such as bullying should be strengthened and enforced. The New Jersey Department of Education should immediately develop or adopt a culturally accurate and sensitive K-12 curriculum, while also initiating a review of current curricula to purge inaccurate and derogatory information from materials currently in use. Finally, New Jersey should move to establish a Native American Scholarship Program, patterned after successful programs currently available in other states.

6. Employment

Native Americans in New Jersey have suffered from a lack of career counseling, job training, and job opportunities.

The Committee believes that a comprehensive approach to these problems is needed to enable tribal members to qualify for a larger number of jobs throughout the state, and to be able to work in their own communities to help their own people. The expanded role

for the Tribal Centers recommended earlier would be the ideal mechanism for pursuing this more comprehensive approach.

7. Health Care

No health-status data are routinely gathered locally or by the state for Native Americans. This absence of data is unfortunate and makes accurate assessment of the health needs of Native Americans very difficult. As such, we know that the health and safety of several hundred people living on or adjacent to the Superfund site in Ringwood are being jeopardized. Moreover, for numerous reasons, many older Native Americans have trouble navigating and accessing the health care services that are provided locally or by the State.

The Committee recommends that State-funded permanent tribal service centers be established or expanded to help the state's Native Americans access services for which they are eligible. It is also evident to the Committee that more effective outreach and engagement by State agencies is needed. For example, information about the Department of Health and Senior Services' health, nutrition and social services, waiver programs and senior pharmaceutical assistance (i.e., PAAD) can be better communicated by both State agencies and local public health entities.

8. Fair Housing

Property taxes and development pressures are making it difficult for Native Americans to remain in their homes and communities. Native American residents are experiencing unprecedented increases to their property taxes, and aggressive real estate practices are forcing them to surrender their homes to developers. Tribal burial grounds and places of worship are also threatened.

9. Follow-up on the Report

As indicated above, this report is the first step in addressing a wide range of deep and long-standing issues of concern to New Jersey's American Indian communities. We therefore strongly recommend that in following up on these issues, the New Jersey Commission on American Indian Affairs be tasked with an annual report to the Governor on the status of all issues and recommendations that are presented in this report.

INTRODUCTION

On August 4, 2006 Governor Jon S. Corzine signed Executive Order 24 establishing the New Jersey Committee on Native American Community Affairs (the “Committee”). The panel was asked to evaluate the social and economic conditions of the Native American communities of New Jersey, including issues of civil rights, access to education, fair housing, infrastructure, environmental justice, employment and health care issues.

The Committee co-chairs are Christine Grant, former Commissioner of the New Jersey Department of Health and Senior Services, and Mariko Lockhart, former President and State Director of Communities In Schools of New Jersey. Other members of the Committee are: former Attorney General W. Cary Edwards; Autumn Wind Scott, a member of the Ramapough Lenape Indian Nation and a member of the New Jersey Commission on American Indian Affairs; and Dr. Henry Coleman of the Bloustein School of Planning and Public Policy at Rutgers University. *Ex officio* members are Secretary of State Nina Mitchell Wells and Lewis Pierce, a member of the Nanticoke Lenni-Lenape Tribe and Chair of the New Jersey Commission on American Indian Affairs. Deputy Attorney General Megan Cordoma provided technical assistance and professional staff support to the Committee. Ms. Rowena Madden of the Secretary of State’s Office also deserves special mention for her contributions to the work of the Committee. Initially, the Governor designated Kenneth Zimmerman as Committee Chair. He was subsequently appointed Counsel to the Governor, and therefore resigned from the Committee.

Governor Corzine began to meet with members of the Ramapough Lenape Indian Nation in north Jersey in response to the death of a tribal member due to a shooting incident involving a park ranger. Many issues emerged during these meetings, and the idea for the Executive Order evolved. While specific concerns of the Ramapough are a key element of the Committee’s work, the group was also asked to review the social, economic, and legal issues of New Jersey’s other tribes: the Nanticoke Lenni-Lenape of south Jersey, and the Powhatan Renape Tribe of Burlington County. New Jersey is also home to members of many tribes which are indigenous to other areas throughout the United States. All of these groups have concerns that have become part of the Committee’s review.

The Committee held in-depth meetings with these groups, and conducted site visits to their tribal areas. During these meetings and site visits, many issues were brought to the fore, including preservation and taxation of tribal property, protection of burial grounds and artifacts, clarification of State-only recognition of New Jersey tribes, and claiming of tribal designations and rights by offshoot groups. Several of these issues have involved years of legal efforts and significant expenditure of resources by the tribes. Many issues related to education in New Jersey schools were discussed, including discrimination and prejudice confronted by American Indian students, lack of appropriate curricular materials for classroom use, disparaging use of Native images and mascots as part of athletic events, and the inappropriate use of tribal names on schools. The Committee also

learned about an array of on-going environmental justice concerns and related issues in the Ringwood area, home of the Ramapough Lenape Indian Nation.

The Committee held public hearings in January 2007 in north Jersey at Ramapo College and in south Jersey at Gloucester County College to enable a wide range of individuals of Indian and non-Indian backgrounds to share information and express their views. There was a special outreach to groups of young people and to tribal elders to learn of their particular perspectives and needs.

The Committee also interacted extensively with the New Jersey Commission on American Indian Affairs, which was created by P.S. 1134, c.295, and signed into law on December 22, 1995 by Governor Christine Todd Whitman. (The Commission was initially established under the name New Jersey Commission on Native American Affairs in 1995, which was later changed to New Jersey Commission on American Indian Affairs.) The Commission is part of the New Jersey Department of State. There has been overlapping membership of the Committee and the Commission, which has been helpful to the research and deliberations of the Committee.

The Committee received *pro bono* legal assistance regarding key elements of the legal history and current status of American Indian communities in New Jersey and other states with significant American Indian populations. This extremely helpful research was conducted by Emily B. Goldberg, Esq., of Gibbons P.C., as part of the John J. Gibbons Fellowship in Public Interest and Constitutional Law. New Jersey's tribes are seeking affirmation of Concurrent Resolutions of the New Jersey Legislature in 1980 and 1982, as well as other types of State-only recognition that might assist them in securing federal grants, scholarship assistance for students, and clarification of issues related to Native arts and crafts.

The Committee invited all key departments of State government to a meeting on December 14, 2006 to discuss the Governor's Executive Order, the work of the Committee, and to hear what the agencies currently do to work with American Indian tribes in New Jersey. The meeting was held in the State House Annex, and was hosted by Secretary of State Nina Mitchell Wells and Committee Co-Chair Mariko Lockhart. Other Committee members and staff were in attendance. There was excellent attendance by key government agencies, including the departments Children and Families, Commerce, Environmental Protection, Health and Senior Services, Human Services, Labor and Workforce Development, Law and Public Safety (including the State Police), and Personnel. There was discussion of collection of statistical data about New Jersey's American Indians. There was a consensus that there is a general lack of understanding of these communities and their needs, and that sensitivity and cultural competency training would be helpful to a variety of agencies. It was also deemed important that each agency designate a liaison to aid in establishing trust, sharing information, and identifying future programs, grants, and job opportunities.

In addressing the inter-governmental aspects of this report, the Committee co-chairs provided the sections on Education, Environmental Justice, and Health to the

commissioners of the related departments of State government, for their review and comment. The comments were helpful to the Committee and will be provided to the New Jersey Commission on American Indian Affairs as it takes up the follow-up work of this report.

The Committee has worked diligently to meet its responsibilities outlined under Executive Order 24. The Committee members attempted to gain the necessary understanding of the issues so that this report would provide Governor Corzine with findings and recommendations that respond comprehensively to the issues and concerns raised in Executive Order 24, as well as the other issues of importance that surfaced during the course of the Committee's investigations.

COMMITTEE MEETINGS AND PUBLIC HEARINGS

The Committee engaged in numerous outreach mechanisms in order to facilitate optimal understanding of the American Indian population in New Jersey and the problems and concerns facing this community. The Committee held two traditional public hearings, and invited representatives from a variety of departments and agencies of the State of New Jersey to a separate roundtable discussion. The Committee also arranged to meet separately with each of the tribes identified in the legislation creating the New Jersey Commission on American Indian Affairs, in the tribal community when possible. Finally, the Committee met with local elected and law enforcement officials from Mahwah and Ringwood to discuss their relations with the Ramapough tribal members who reside in their towns. Below is a list of the meetings and hearings conducted by the Committee.

July 25, 2006	Committee Meeting, New Brunswick
August 23, 2006	Committee Meeting, New Brunswick Guests: Ramapough Tribal Representatives
September 19, 2006	Committee Meeting, New Brunswick Guest: New Jersey Department of Environmental Protection representative
October 19, 2006	Site Visit to Ramapough community and the Superfund site
October 24, 2006	Site Visit to Nanticoke Tribal Center and land
November 21, 2006	Committee Meeting, Conference Call
December 14, 2006	Roundtable with State of New Jersey agency representatives, Trenton
December 19, 2006	Committee Meeting, New Brunswick Guest: Powhatan tribal representative
January 9, 2007	Public Hearing - Ramapo College
January 11, 2007	Public Hearing - Gloucester County Community College
February 13, 2007	Meeting with Mahwah Mayor, Police Chief and other town officials, Mahwah
February 15, 2007	Committee Meeting, New Brunswick

Guests: Representatives of the Inter-Tribal people living in New Jersey; representative of the Sand Hill Band of Indians

February 20, 2007

Meeting with Ringwood Mayor and Ringwood Community Committee, Ringwood

March 12, 2007

Committee Meeting, Conference Call

April 17, 2007

Committee Meeting, New Brunswick

June 6, 2007

Committee Meeting, Conference Call

July 12, 2007

Meeting with New Jersey Association of Casinos

I. BACKGROUND OF NEW JERSEY'S AMERICAN INDIAN TRIBES

Historical Section on The Lenape Indians of New Jersey

The Committee has included the following section, which provides an overview of a pivotal period of American Indian history in New Jersey, the 18th century. During this period, sale of Indian lands, important treaties, and the development and dissolution of New Jersey's one tribal reservation took place. The Committee believes that this brief section will be helpful to the readers of this report in setting an historical context for much that has followed in the years from the 18th century to the present.

This section draws upon the book, The Lenape: Archaeology, History, and Ethnography by Herbert C. Kraft, copyright 1986 by the New Jersey Historical Society. The Committee cannot independently verify the accuracy of the following historical section and does not intend that it be considered an official state account of the information included.

Sale of Indian Lands, Treaties, and an Indian Reservation – the mid-18th century

In New Jersey, issues related to American Indian lands and treaties were complex, and key steps took place through the 18th century. According to Herbert C. Kraft, “The Lenape Indians rarely sold their lands individually, for it was the community that ultimately decided whether or not to accept an offer. Where large tracts of land were to be alienated, several Indians usually transferred their rights simultaneously by the same deed, without specifying which part had belonged to each person or family....Land was not sold for money, because the Indians had no use for Dutch guilders or English shillings. European trade goods were the preferred objects of the bartering....The goods received in payment for lands in such transactions were to be distributed among all members of the Indian band involved.” (pp. 226-227)

According to Kraft, “Contributing to the problems caused by indefinite boundaries in deeds was the use of indistinct language. Phrases such as ‘as far as a man can go in two days,’ ‘as far as a man could rise in two days with a horse’were used instead of land measurements.” (p. 227) An infamous deed that resulted in fraud was the “Walking Purchase” Deed of 1737, intended to confirm an agreement concerning lands in and around the Forks of the Delaware (near Easton, Pennsylvania) during which the English cut trees, removed all obstacles, and trained three fast walkers to undertake the task. (pp 227-228)

By the mid-18th century, a number of Indians, especially members of the Munsee-speaking Minisink and Shawnee bands in the north, were hostile and resentful of past injuries and injustices, and, according to Kraft, they used the French and Indian War as an excuse for revenge, attacking outlying white settlements. (p. 229) This led the New Jersey legislature “to appoint a commission to investigate the Indian situation. The

members were charged with listening to the Native Americans' grievances and considering the purchase of the remaining Indian-owned lands in New Jersey." (p. 229)

In January 1756 the first meeting was held with certain Delaware bands at Crosswicks in Burlington County. The following year, as a result of the commission's recommendations, the New Jersey legislature passed regulations on a number of topics, including regulation of use of animal traps by white settlers that heretofore had diminished the Indians' food supply." Most important, in the future, "no Sale, Conveyance, or Lease of Lands from an Indian or Indians, to any Person empowered to lease or purchase within this Colony, shall be esteemed good and valid, except previous to the Execution of said Deed or Lease, there be a Certificate signed by six Indian Men, signifying that the Indian or Indians, who are contracting for the sale or rent of such Land, is or are the true and lawful Owner or Owners thereof..." (pp. 229-230)

A second meeting, held at Crosswicks in February 1758, was attended by six representatives of the state and by Teedyuscung (called "King of the Delaware") and George Hopayock, with twenty-nine Delaware representatives. Five Indians were appointed to work with the commissioners to resolve conflicting land claims and to formulate future procedures. On August 12, 1758, the legislature approved the expenditure of £1,600 half to pay for outstanding land claims and half to purchase a tract of land for an Indian reservation. The reservation was to be held "in trust, tax free, for the exclusive use of the Indians living south of the Raritan River. It was to belong to the Indians forever, but they could not lease or sell any of it. The act also provided that the Indians would retain their right to hunt or any unenclosed land or fish in the rivers and bays." (p. 230)

Another peace conference was held at Easton, Pennsylvania, from October 8 to 26, 1758. "At this time the remaining Indian-held lands in the area north of the Raritan River and the Delaware Water Gap were sold to Francis Bernard, governor of New Jersey. Also, the Minisink, Pompton, and other Munsee-speaking Indians, promised to conclude a peace with the colonists. In order to prevent future problems, Bernard showed the Indians "a map of all the areas in question, and written deed was drawn up and signed during the conference. In return the Indians received a cash settlement of one thousand Spanish dollars that the Native Americans could divide among themselves." (p. 230)

As a result of the Treaty of Crosswicks, the New Jersey commissioners purchased 3,044 acres of land at Edgepillock (now Indian Mills) in Burlington County. Named "Brotherton," this became the first and only Indian reservation in New Jersey. Approximately 100 Indians, primarily those who had accepted Christianity, moved to the reservation in 1759. Non-Christian Indians living south of the Raritan River were invited to join the reservation, but refused, "being distrustful of the colonists and afraid of being concentrated in one place where they might easily be confined or killed." The non-reservation Indians continued to live in their own small communities, frequently as freeholders, craftsmen, or farm workers. (p. 231)

According to Kraft, the “promise of a good life and peaceful coexistence for the Indians at the Brotherton reservation failed to materialize,” as the colonists nearby continued to harass the Indians and to graze their cattle on the Indian lands. By 1801 the Brotherton group, now numbering only 63, accepted an invitation to join the Mahican Indians at New Stockbridge, near Oneida Lake in New York. In response to a petition from the Brotherton Indians, the New Jersey legislature passed an act on December 3, 1801, appointing three commissioners to sell the reservation lands and use the revenues to relocate the Indians to New Stockbridge. Some of the money was used to purchase land and homes at the new location, clothing, and farm equipment. The reservation was divided into lots and sold at auction on May 10, 1802. (p. 232)

Ramapough Lenape Indian Nation

The members of the Ramapough Lenape Indian Nation are descendants of Munsee speaking groups, i.e., Lenape-Delawares, who have occupied the Highlands region of Northern New Jersey and southeastern New York for long periods prior to European settlement. Following the Treaty of Easton in 1758, at which time Native groups relinquished their remaining lands in New Jersey, many remnant Native groups retreated to the mountainous uplands and established a community virtually invisible to the newcomers below. Among these Munsee speakers were small bands known to Europeans by the geographic locations, and referred to as the Pomton, Esopus, Haverstraws, Tappans, and Warranawankong.

The Ramapough served as a refugium or safe haven for these and other Native Americans following their contacts with Europeans. Today, the Ramapough Lenape Indian Nation continues with over 4,000 members. Among them are three clans located in Mahwah and Ringwood, New Jersey and Hillburn, New York. The Ramapough Lenape tribal office and resource center is located in Mahwah, New Jersey. Members from both the New Jersey and New York tribal population utilize the center. The Tribe is governed by a Principal Chief, Dwaine Perry, three clan chiefs, and a Tribal Council.

The Ramapough Lenape Tribe shares many concerns with all of New Jersey’s American Indian groups, including inadequate education, poor access to health care, limited employment services, obstacles to cultural preservation, and on-going threats to their legal rights. However, this tribe has also experienced the additional and dramatic effects of an on-going environmental hazard, which is a Superfund site caused by dumping of tons of toxins into the environment. This site was at one time removed from the Superfund list, but has been restored to that status due to the re-emergence of toxins and toxic sludge throughout the land occupied by Native American citizens in the Ringwood, New Jersey area. There are on-going federal and state efforts to clean up this environmental hazard, but the community is subject to past and continuing threats to its health and homes. During the months before and after the Committee’s visit to the site on October 19, 2006, property around several of the homes experienced sinkholes, which has caused additional life safety concerns.

The Ramapough area was also the site of the shooting and subsequent death of tribal member Emil Mann in a park setting by a state park ranger. It was this death and the circumstances surrounding it that initially brought to the attention of State officials, and the wider public, the on-going issues that have challenged the Tribe for decades. As the Ramapo Mountain area has become more attractive to non-Native residents of the state, issues related to tribal land and burial sites, affordability of housing, and interaction with law enforcement have become greater challenges. The circumstances of the shooting and issues of accountability are being investigated by the County Prosecutor's Office. But in a sense, that death has given the State of New Jersey an opportunity to study, understand, and address the long-standing issues.

(The Committee used and recommends the following books: From Pioneer Settlement to Suburb: A History of Mahwah, New Jersey, from 1700 through 1976 by Henry Bischoff and Mitchell Kahn; Indians in the Ramapos by Ed Lenik; and Native New Yorkers by Professor Evan Pritchard.)

Nanticoke Lenni-Lenape Indians of New Jersey

The Nanticoke Lenni-Lenape are known by the Algonquin Tribes as the "Original People." When the first European settlers arrived in this area, the members of the Tribes were living in scattered areas of eastern Pennsylvania, southern New Jersey, and Delaware. The Tribe's encounters with Swedish settlers were very positive, and a Treaty of Friendship was established over 350 years ago. On June 17, 2004 there was a reenactment of the treaty signing on the 350th anniversary of the event. Representatives of the Swedish government attended and participated in the reenactment as a sign of continued goodwill between that government and the Nanticoke Lenni-Lenape.

However, as more Europeans settled in these areas, increasing the level of conflict and encroachment upon tribal lands, many of the Tribe's members were killed or removed from their homelands. Many either moved to Canada, Kansas, Oklahoma and other areas, or faced elimination. Those that remained lived in fear and survived through assimilation into the dominant culture, becoming farmers and traders. It was difficult during those years (1800–1940's) to retain tribal community, but the Tribe persevered. By 1978 some 90 percent of the Tribe's population resided in and around Bridgeton, New Jersey.

In 1978, the Tribe incorporated as a non-profit entity and began the process of setting a course of action for its members. A tribal office was established in Bridgeton in 1979. The Tribe worked to achieve recognition from the State of New Jersey and, in 1982, Senate Concurrent Resolution Number 73, clarified its relationship with the State. Since 1982, the Tribe has put its efforts into cultural retention, providing services to members, and seeking federal recognition.

The Tribe's current population is at least 2,000 members, consisting of 708 households. Tribal citizens reside primarily in Salem, Cumberland, and Gloucester counties.

One issue that has continued to challenge the Nanticoke Lenni-Lenape Nation is the emergence of individuals who claim to represent the Tribe in legal and other matters. This has led to lawsuits which have absorbed considerable time and resources of this Tribe.

The Tribe is governed by a nine-member Tribal Council elected at-large annually to staggered terms by tribal citizens. The Tribal Chair is Mark Gould, who takes an active role in state and local cultural programs, as well as educating the wider public about American Indian history and contributions. The Tribe has received state and federal grants, grants that were available to the general public, to support social and employment services for its members, and recently was awarded a VISTA/AmeriCorps grant. The Tribe has also been active in support of archeological sites and findings, particularly the preservation of the Black Creek Site in the Vernon Valley, in partnership with the New Jersey Department of Environmental Protection (DEP).

(The Committee used materials that the Tribe provided to various historical and legislative groups during its history. On site at the tribal office are voluminous genealogical documents.)

The Powhatan Renape Nation

The Powhatan Renape people are descendants of an ancient confederation that at one time included over thirty nations. According to the late Powhatan Renape Chief Roy Crazy Horse:

Our people were placed here by the Creator, and have maintained an unbroken history of thousands of years of settlement along the coastal areas of the mid-Atlantic....The oldest treaty written in this land is between the Powhatan Nations in the year 1646...since the time we met the Europeans in the 1500's, our history has been characterized as a struggle to survive war, disease, prejudice, and cultural disintegration. Foreign disease alone probably accounted for halving the Powhatan population, by the end of the 17th century.

In this area, most of the tribal members came to settle in tiny subdivisions known as Morrisville and Delair in Pennsauken Township. In the 1960's, the Tribe established a center in Philadelphia and later in Moorestown, and in 1976 they moved to larger quarters in Medford. In 1982, the Powhatan Renape Nation negotiated an agreement with the State of New Jersey to lease 350 acres of State-owned land in the town of Westampton in Burlington County. The property is now known as the Rankokus Indian Reservation. Annual events such as the Juried American Indian Arts Festival, the largest of its kind east of the Mississippi, are held at the Reservation. Thousands of school children visit the Reservation annually to tour its museum, art gallery, many exhibits, and nature trails.

Inter-Tribal People

The legislation that established the New Jersey Commission on American Indian Affairs provided for representation of those New Jersey citizens who are members of tribes located outside of New Jersey. In raising their families in New Jersey, they have experienced many of the same issues that challenge the three New Jersey tribal groups, including education, health, and cultural preservation. The Inter-Tribal American Indians of New Jersey is an organization created circa 1980 to meet the needs of American Indians from across North and South America who are now living in New Jersey. The organization provides social activities and support to those Indians living in New Jersey and is dedicated to educating the public about American Indian culture and history. Members have represented Nations such as Mohawk, Cayuga, Seneca, Cherokee, Delaware, Apache, Lakota, and Hopi.

II. FINDINGS

Legal Analysis of State Recognition and Other Legislative and Policy Issues

Executive Order No. 24 charged this Committee to undertake a thorough examination of certain aspects of the current status of the Ramapough Lenape Indian Nation as well as the greater American Indian community in New Jersey.¹ To this end, the Committee identified several legal questions affecting the status of New Jersey's American Indian tribes, their burial grounds, places of worship and artifact preservation. The Committee commissioned *pro bono* legal research; reviewed a large body of federal, state and municipal resolutions, laws, and regulations; and accumulated extensive testimony to assess the impact of current resolutions and laws on the tribes. The following are the legal questions and the Committee's findings and supporting research.

Issues and Questions:

- ✓ Will additional statutory recognition of the State's American Indian tribes benefit both the tribes and New Jersey?
- ✓ How does New Jersey currently recognize and designate its indigenous American Indian tribes, and why is this inadequate to improve their status?
- ✓ What is the significance of federal recognition and State-only recognition to New Jersey's tribes?
- ✓ Are tribes in other states recognized by State statute only?
- ✓ What is the impact of State-only recognition on gaming rights?
- ✓ Are American Indian tribal burial grounds and artifacts protected in New Jersey law?
- ✓ Does New Jersey law exempt tribal property used for open-air worship from property taxes?

Will additional statutory recognition of the state's Native American tribes benefit both the tribes and New Jersey?

The Committee's major finding is that passage of both updated legislative resolutions ratified by the Governor and enactment of a new State Law affirming the recognition of the State's three American Indian Tribes will be a significant step to ensure fair treatment and equal access to State government and services as urged by the Executive Order charging this Committee. Such legislation would ideally affirm and update the 1980 and

1982 State-only recognition of the three state tribes, and enumerate benefits to accrue to both the tribes and New Jersey. The Committee recommends that new state legislation patterned on federal legislation to protect human remains, tribal burial plots, funerary objects, and archeological excavations also be passed together with or separate from recognition legislation.

There are several reasons why new legislation is needed. It will benefit the State, its citizens of American Indian descent and all citizens of New Jersey culturally and economically.

First, the Committee finds that despite its pride in the rich diversity of its population, New Jersey's laws, policies, and government relationships do not lead, but rather lag behind many other states as related to legislative recognition and treasuring its American Indian Tribes.² The Committee heard many examples of ignorance, and disrespect or disregard of the tribes' past and present culture and lifestyles, including their historical significance to the state, their sacred sites, burial grounds, artifact preservation and environmental advocacy.³ The Committee found an absence of State law or regulatory protection in these areas.⁴

Tribal members emphasized, in written and oral testimony provided during site visits and public hearings, that the cultural and societal validation of their existence and heritage carries enormous value to them and their families.⁵ Young students provided particularly compelling testimony during the public hearings that they often encounter ignorance of even the existence of American Indians in New Jersey. They stressed how important State recognition is to their self-esteem and to their ability to live and share their tribal ways, while participating as productive citizens among the majority population.⁶

Second, fifteen (15) other states have developed a range of methods of recognition: seven by statute (Alabama, Connecticut, Delaware, Georgia, New York, North Carolina, and Vermont); two by executive order (Kentucky, Massachusetts); three by resolution (California, Ohio, Louisiana); and four did so by agency action (Alabama, Michigan, South Carolina, and Virginia). These examples provide ample precedent and information to support the findings of potential cultural and economic benefit of State-only recognition for New Jersey's three American Indian tribes.⁷ Specific examples of federal funding and other benefits, which can accompany State-only tribal recognition, are discussed below.

Third, the Committee finds enthusiasm among the general public for such recognition. While we did find the general public to be surprised and uninformed about the adverse issues affecting tribal members, they were enthusiastic at the prospect of improving the situation.⁸ Only a few people informally registered lingering concern about whether a robust state recognition statute would somehow open the door to tribal "gaming rights." The Committee recognizes that recent unsuccessful litigation against the State of New Jersey, by out of state parties who are not associated with (and are repudiated by) New Jersey's indigenous American Indian tribes, may have chilled the previous State Administration's policy toward the three state tribes. This is evidenced in several letters

of correspondence between the State Attorney General's office and the Federal Bureau of Indian Affairs during the period 2002-2003. However, the Committee's research concluded that State legislative designations explicitly prevent the creation of any gaming rights for New Jersey's three previously recognized American Indian tribes. A meeting with representatives of the New Jersey Casino Association did not result in contradiction or alternate interpretation of the research concerning recognition.

Fourth, based on the legal research and testimony received, the Committee finds no impediment in the New Jersey State Constitution to prevent the type of State-only recognition currently found in at least 15 other states' laws.⁹

Moreover, the research provided concluded that State-only recognition is legally separate and distinct from the Federal recognition process.¹⁰ As such, the mere fact that a tribe has been State-recognized would not improve the likelihood of a positive outcome of subsequent Federal recognition efforts, and would confer neither gaming nor land rights.¹¹

How does New Jersey currently recognize its indigenous American Indian tribes, and why this is inadequate and detrimental to their status?

After public discussion confirming the wisdom of recognizing New Jersey tribes during 1979-80, New Jersey's legislature designated three New Jersey tribes, the Nanticoke Lenni-Lenape, the Powhatan Renape, and the Ramapough, by means of concurrent legislative resolutions. The resolutions are found in 1980 Legislative Concurrent Resolutions; Assembly Concurrent Resolution (ACR) 3031, and Senate Concurrent Resolutions (SCRs) 73 and 104 in 1982.¹²

These legislative resolutions state in pertinent part:

....the Ramapough Mountain People of the Ramapough mountains of Bergen and Passaic counties, descendants of the Iroquois and Algonquin nations are hereby designated by the State of New Jersey as the Ramapough Indians; (ACR 3031, 1/8/80)

.... That the Confederation of the Nanticoke-Lenni-Lenape Tribes of southern New Jersey, as an alliance of Independent surviving tribes of the area, is hereby designated by the State of New Jersey as such (SCR 73, 12/17/82)

.... That the Powhatan Renape People of the Delaware Valley, as the surviving tribes of the Renape linguistic group of the Powhatan alliance, are hereby designated by the State of New Jersey as the Powhatan Renape Nation. (SCR 104, 10/20/80)

The Committee heard consistent testimony from the three tribes that these Concurrent Resolutions were initially of value. They helped members to access some Federal

services and to experience the public acknowledgment and validation that their tribes remain active and vital in New Jersey. However, the passage of time, more recent state correspondence with the federal Bureau of Indian Affairs, and the enactment of other states' clearer, stronger statutes have weakened the value of the 1980 and 1982 resolutions.¹³ These events have jeopardized the ability of the tribes and the State of New Jersey to obtain federal funding directly or indirectly. A rough estimate is that several million dollars could be attracted to New Jersey's economy each year if there were a clearer, stronger State recognition of the state's three tribes.

Committee member W. Cary Edwards was a co-sponsor of ACR-3031, and his recollection of the legislative discussion reinforces the Committee's findings.¹⁴

In addition to the 1980 and 1982 Concurrent Resolutions, N.J.S.A. 52:16A-53 et seq. created the New Jersey Commission on American Indian Affairs in 1995.¹⁵ This law provided additional affirmation of the existence and designation of New Jersey's tribes. It named three tribes as permanent members of the Commission: the Nanticoke Lenni-Lenape, the Powhatan Renape, and the Ramapough Lenape. Two members of the Inter-tribal people from tribes other than the indigenous New Jersey tribes are also included. However, despite extensive legislative history, the creation of the Commission, and the general public interest in the tribes, policy statements in letters from the State to federal agencies have created ambiguity on the issue of State recognition and prevented New Jersey's three tribes from being included in national listings of State-recognized tribes, which in turn has denied benefits to both the tribes and to the state.¹⁶

Experts in American Indian affairs express puzzlement at New Jersey's inconsistent policies and treatment of its tribes.¹⁷ As federal and state funding become more restricted, New Jersey's tribal members are suffering greater opportunity costs.

For all these reasons the Committee finds that statutory affirmation of the State's designation of its three tribes, with appropriate enumeration of privileges and disclaimers, is needed. The Committee's analysis and recommendations did not and were not intended to address the distinct issue of the federal government's approach and criteria used to determine whether to recognize an American Indian tribe. The Committee views the issue of crafting an approach to initiate State-only recognition as distinct and independent of federal recognition. It urges this report not be utilized by anyone to meet the federal Bureau of Indian Affairs formal requirements for federal recognition.

What is the significance of Federal recognition law to New Jersey's tribes?

The Federal government has recognized none of New Jersey's indigenous tribes. The U.S. Department of Interior's Bureau of Indian Affairs pursuant to federal law and treaties had recognized 561 tribes nationwide as of November 23, 2005.¹⁸ The process of federal recognition found in 25 C.F.R. §83.7 requires a tribe to meet seven criteria related to continuous governance and lineage.¹⁹ Rights that attach with federal recognition include what is described as Limited Tribal Sovereignty by means of government-to-government relationships between the federal government and the tribe. Federal

recognition also creates access to a variety of federal funding programs for education, arts and crafts designation, employment training, and health and welfare services. Non-recognition does not mean a tribe is not an authentic tribe, and many American Indian tribes are not federally recognized, but only that for whatever reasons it has not met the criteria for federal recognition, which would include the limited sovereignty provisions in federal law.

The Federal government also makes available a number of valuable funding opportunities to the more than 50 State-only designated or recognized tribes. Some of these potential federal funding opportunities include:²⁰

- 1) Access to the American Indian Title VII Education, Funding Programming and Initiatives (20 U.S.C. 7401 et seq.);
- 2) Access to the Workforce Investment Act of 1998 (section 166) and the Empowerment Zone and Enterprise Community Program (also known as the Taxpayer Relief Act of 1997); programs which help fund access to energy subsidies are available for poor American Indians;
- 3) Small Business Association 8(a) Business Development Program (13 C.F.R. 124.506);
- 4) Indian Self Determination and Education Assistance Act (25 USC 450 B);
- 5) Indian Child Welfare Act (25 USC 21);
- 6) Indian Community Development Block Grant program (42 U.S.C. 5301 et seq.);
- 7) Inclusion of Tribes/demographics in the United States Census through a State designated American Indian Statistical Area (SDAISA);
- 8) Access to participation in the National Congress of American Indians; and
- 9) Access to formal working relationships with federal wildlife and environmental preservation efforts.

In addition, and of special importance to New Jersey's Native American artisans, State recognition allows state recognized tribal members to avoid federal prosecution under the American Indian Federal Indian Arts and Crafts Act of 1990 if they mark their works as American Indian. This is a particularly valuable potential economic benefit to New Jersey's three American Indian tribes.²¹ The Act's regulations specify how crafts made by members of Federal and/or State-only recognized tribes may be identified as the genuine works of American Indians. Arts and crafts carrying these labels are more valuable than non-identified works. The Act carries civil and criminal penalties for unauthorized identification by the artist. In recent years, New Jersey's tribal artisans have begun to experience problems when they ask to identify their products as genuine because during previous administration state officials have sent the Federal Indian Board

of Arts and Crafts ambiguous and conflicting information concerning the status of State recognition.

The federal government relies on a state's designation of a State-recognized tribe without review. The federal government has made clear that State designation does not affect its federal designation process.

The Committee determined that none of New Jersey's three tribes has received federal recognition, nor was there any information provided to the Committee to indicate that they will ever receive federal designation. None of the three designated tribes has federal or state reservation lands. Legal research conducted for the Committee by the New Jersey law firm of Gibbons PC affirmed that State-only recognition does not confer gaming rights, nor does the mere fact that a tribe is State-recognized give rise to federal gaming rights. The following summarizes the research on this point.

The Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701-2721 (2000) (referred to as the "IGRA") was passed so that the federal government could regulate the gaming activities of federally recognized tribes. Since federally recognized tribes are considered sovereign, and IGRA is generally understood to have been intended to exclusively govern the gambling activities of federally recognized tribes -- a growing line of federal case law has concluded that only the federal government, and not any state government, may regulate the gaming activities of federally recognized tribes that occur on their federally recognized land. As such, IGRA is widely understood to "preempt" the field of gaming by federally-recognized Indian tribes on federally recognized land.²²

By contrast, while IGRA preempts the field of tribal gaming by federally recognized tribes, the States retain their reserved constitutional authority -- generally known as the police power -- to regulate the gaming activities of tribes that are not federally recognized, as well as the gaming activities of federally recognized tribes that take place outside their federally recognized tribal lands.²³

The Tenth Amendment to the United States Constitution provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."²⁴

As such, New Jersey would have no power to regulate the gambling activities of any future federally recognized tribe on their (hypothetical) federally recognized land. That is true whether or not New Jersey chooses to provide State recognition to any of the state's tribes. By contrast, New Jersey will reserve the unilateral authority to regulate the gaming activities of tribes that are not federally recognized -- even those to which it may ultimately provide state recognition status. Accordingly, New Jersey can freely deny its tribes, to the extent that they never achieve federal recognition, the right to gamble -- in the same way that the State can prevent any other individual or entity from gambling.

Are State-only statutes used in other states to seek federal recognition for American Indian tribes?

The federal government has recognized 561 tribes nationwide. (See comments above.) Sixteen (16) states, including New Jersey, have designated or recognized, through legislative, executive, or agency action, at least 50 State-only tribes as of February 2007.²⁵ The other states are Alabama, California, Connecticut, Delaware, Georgia, Kentucky, Louisiana, Massachusetts, Michigan, New York, North Carolina, Ohio, South Carolina, Vermont, and Virginia. Many of these are “State-only” tribes, a status that recognizes and enumerates privileges and limitations through state statutes (only 7 by statute.)

These statutes do not create the “limited sovereign” relationships that a formal federal process may create, nor do they confer Indian reservation land or gaming rights. Rather, most State-only recognition statutes name, describe and designate their indigenous tribes, create a process to determine whether other applicant tribes might apply, describe the societal benefits (such as access to federal funding) likely to accrue, create a state Indian affairs commission, and enumerate benefits for tribal members. Several of the statutes create State-funded educational grants for tribal members, provide affirmatively for the handling and protection of tribal artifacts and establish processes to protect burial grounds, human remains, and funerary objects.²⁶ A few statutes explicitly disavow existence or creation of certain privileges, such as gaming rights, to the recognized tribes.

In summary, the Committee finds that “State-only” statutory recognition for New Jersey’s largest American Indian tribes would provide access to numerous federal (and some state) funding programs and to opportunities for cultural collaboration and private philanthropic support.

Are American Indian tribal burial grounds and artifacts protected in New Jersey law?

New Jersey does not have a state statute specifically protecting American Indian burial or archeological sites. The Committee heard testimony from tribal members about the location and uncertain custody of American Indian burial plots, artifacts and places of worship. Committee members viewed a number of these during on-site visits. Tribal members made clear that the grounds of burial plots (as well as the remains) are sacred to them. They visit burial sites as part of their spiritual observances, as well as out of respect for deceased ancestors. State agencies have previously reported examples of burial site and archeological vandalism.²⁷ Private individuals reported having loaned personal family artifacts to museums, libraries or other groups, only to have these places refuse to return or properly account for their whereabouts.²⁸ (As of the report date, an inquiry by the NJ Commission on American Indian Affairs has led to an agreement between one group and museum for the return of loaned articles.) Nor are there state provisions providing for the preservation and cataloguing of American Indian objects held by state or local museums, libraries or other public entities. The Federal Native American Graves

Protection and Repatriation Act applies only to Federally funded institutions and federal lands.²⁹ This is why numerous other states have introduced legislation to protect areas and artifacts not protected by federal law.

Ramapough leaders indicated that their people were concerned that a municipal employee had told them that burial grounds, formal or informal, would revert to the municipality 50 years after the last person had been interred. The Committee brought these concerns to the attention of officials in Mahwah and Ringwood, and it is hoped they will work with the Ramapough on these issues locally. However, state legislation is needed for the many unprotected areas throughout the state. Subsequent research concluded there is no such municipal ordinance or state law concerning abandonment. However N.J.S.A.40: 60-25.61 et seq. does have provisions addressing neglected or abandoned burial grounds.³⁰

Where a cemetery or burial ground is owned or controlled by a church or other organization that has neglected to such an extent that the municipal board of health considers it to be a “detriment to public health” or to the morals of the community, the board of health may apply to the local governing body responsible for the finances of the municipality to take possession, or to authorize the board of education of the municipality to take possession of the land.³¹ The law also provides a process by which the municipality can disinter buried bodies and ultimately convey the property to any public use/purpose, including schools.³² Similar processes may be applied to abandoned burial/cemetery property.

Thus, there is some risk that tribal burial plots, particularly those located in remote, unmarked, privately owned areas, could be subject to adverse municipal action about neglect or abandonment. Rising land costs in both north and south New Jersey counties (where such burial plots are believed to be abundant) could tempt persons to seek to have burial plots designated as neglected or abandoned in order to secure them for development.

The Committee finds this is another reason that the state needs to address the protection of tribal burial grounds, human remains and artifacts, including funerary artifacts, through state statute, and recommends that other states’ laws may provide relevant language for consideration.³³ The Committee recommends that the Commission on American Indian Affairs continue to work with the State Cemetery Board and state historical conservation and land trust groups in an effort to resolve these concerns. In summary, the Committee finds that current New Jersey law does not adequately address the issue of protecting Indian burial plots or archeological digs.

Does New Jersey law provide a property tax exemption for tribal property used for open-air worship?

Existing New Jersey tax law provides limited tax exemption for land owned by tax-exempt organizations and used for worship. However, the Nanticoke Lenni-Lenape expressed the concern that existing state law does not address the special case of tax exemption for land owned by tribes and used primarily for open-air worship. Preliminary

research provided to the Committee indicates that state law offers some tax relief if there is a structure existing on every five acres of property used for religious worship. However, by its nature, open-air worship does not necessarily include structures.

N.J.S.A. 54:4-3.6 specifies the limited circumstances under which non-profit organizations can obtain property tax exemption. This law does not currently provide for a special case treatment for open air worship. We recommend that the matter be sent to the departments Law and Public Safety and Treasury to explore the changes in law or regulation that would be required to make reasonable accommodations to this purpose.

Recommendations:

- **Issuance of an Executive Order affirming the State’s respect for and recognition of the three tribes and their contributions to the state, and directing State agencies to review and modify programs to ensure that they are accessible to and utilized by tribal members.**
- **Passage of new legislative resolutions signed by the Governor affirming State recognition of New Jersey’s three American Indian tribes: the Nanticoke Lenni-Lenape, the Powhatan Renape, and the Ramapough Lenape Indian Nation.**
- **Enactment of new State legislation which 1) Affirms state recognition for the three tribes previously recognized by 1980 and 1982 state resolutions; makes clear State intent to ensure tribal eligibility for federal benefits and national recognition available for other State-recognized tribes, and includes appropriate disclaimers of State intent to recognize or confer any rights or privileges to conduct gaming activities; 2) Strengthens the New Jersey Commission on American Indian Affairs, charging it to establish criteria and a process to assess future requests from other groups for state tribal recognition, provides reasonable stable state funding for the Commission and three tribal service centers which currently serve the three tribes; and 3) Creates protections and penalties necessary for the protection of tribal burial grounds, unauthorized excavation or other abuse of tribal human remains and artifacts which are currently absent in State law.**
- **Request that the Attorney General review and make recommendations to allow reasonable property tax relief for property use primarily for open air worship.**

Environmental Justice

One of the first major issues to come to the Committee's attention was the existence of a U.S. Environmental Protection Agency (EPA)-designated Superfund site in Ringwood, home of the Ramapough Lenape Indian Nation. The site has a long history of toxic contamination and questionable handling by government agencies. The primary source of contamination has been paint sludge from the former Ford Motor Company plant in Mahwah, although other sources of waste disposal, including the borough of Ringwood itself, have also contributed. Ford Motor Company has been mandated by EPA to remediate the site.

Issues:

- ✓ Extraordinary environmental pollution and degradation in a section of Ringwood, New Jersey, home of the Ramapough Lenape Indian Nation. This was caused by the dumping of many hundreds of tons of paint sludge, batteries, thinners and other toxic waste by the Ford Motor Company, which opened an auto assembly plant in Mahwah in 1955.
- ✓ Designation of a Superfund site in 1983 by the U.S. Environmental Protection Agency (EPA); subsequent de-listing of the site in 1994, and then the re-listing in October 2006 (the first time in the country that a site had been put back on the Superfund list after having been removed).
- ✓ Testimony from members of the Ramapough Tribe and surveys demonstrating heightened levels of respiratory and skin diseases; female reproductive disorders, miscarriages, and birth defects; learning disabilities; cancers, leukemia and neurological disorders.
- ✓ Presence of sinkholes, cave-ins, and subsidences, which may have been stimulated by the Superfund remediation activity, posing danger to the community, especially children.
- ✓ Lack of a central point person with the authority to direct multiple agency actions.

The Committee visited the Superfund site on October 19, 2006, observed the evidence of paint sludge removal from residents' property and surrounding areas near homes, ponds, and wildlife. One area we observed was roughly the size of a football field and was located just across the road from a residential area. The visit also included representatives from the EPA, the New Jersey Department of Environmental Protection (DEP), Ringwood Borough, environmental activists and Ramapough residents of Upper Ringwood, the most affected area. Committee members had the opportunity to ask questions of those present regarding current and past activity. Additionally, the

Committee heard testimony by Ringwood residents during the site visit, the Committee's public hearings and a community meeting convened by the Governor's Office and DEP. Many of the residents who provided firsthand information were Ramapough Indians, who testified as to the presence of paint sludge on their properties, and related many stories of cancers, tumors, blood and other ailments in residents of all ages.

As Joanne Silverfox Schafer, a Ramapough Indian, testified to the Committee at its public hearing held at Ramapo College, "We're dying. We're dying. Ringwood is finished, and this has been going on for years and years and years. I don't think it's just because of the Ford plant. There has been Dupont Chemical. There has been Arrow Meadows. There have been multiple companies dumping there."³⁴

Another Ramapough man, Bruce Perry, testified, "...our people are dying at an outrageous rate before the age of 60, or they're close to it, 61, 62. I'm 56 years old and I'm darn near an elder in our nation right now."³⁵

History

The Ford Motor Company opened its Mahwah factory in 1955 beneath the Ramapo Mountains and beside the Ramapo River. With 10 miles of assembly lines, the plant produced hundreds of vehicles a day, along with corresponding quantities of industrial waste: leaky batteries, lacquer, thinners and paint sludge -- a combination of paint, chemicals, and water used to aid in its disposal. It is estimated that 6,000 gallons of paint sludge was produced daily over the period of 25 years that the Ford plant operated, or a total of approximately 30 million gallons according to Ford documents.³⁶

Initially this waste was dumped behind the plant, where the Lenni-Lenape Indians once held pow wows, large gatherings of a tribe or tribes for ceremonial or celebratory purposes. It is estimated that millions of gallons of paint sludge were dumped in Ringwood, home to the Ramapough Lenape.

In 1983, the federal government declared the area a Superfund site. It was one of the first sites to be added to the list after the Superfund law was enacted in 1980. In 1984, ground water monitoring wells were installed. From 1987-1990, Ford removed 7,000 cubic yards (727 tons) of paint sludge, plus 61 drums of toxic waste. In 1994, 11 years after its Superfund designation, the EPA de-listed the site and declared it clean, citing "extensive" surveys by Ford that "did not uncover any further contaminated soils/sludge, or barrels of hazardous substances at the site."³⁷

Nonetheless, residents continued to find and report more sludge, requiring the agency to return again in 1995 and 1997. There is much debate over how the site came to be de-listed in 1994 and whose responsibility it was to ensure that the site indeed qualified to be de-listed. Additionally, there are concerns among the residents and environmental groups that the unprecedented level of neglect reflects environmental racism.

As part of the de-listing process, DEP must sign off on the reports before EPA makes the final declaration. DEP officials state that they were a secondary party to the investigation and relied on information provided by the EPA and that the primary responsibility has always resided with the EPA. Since December 2004, Ford removed about 20,000 tons of paint sludge and soil from its former dump site in Ringwood. This represents more than twice as much as was removed in excavations in 1987-90 that led the Environmental Protection Agency to declare the site clean.³⁸ The site was relisted in October 2006. *It was the first time in the country that a site has been put back on the Superfund list after having been taken off.* Additional questions have been raised as to whether Ford received preferential treatment due to the fact that they were required to perform the least stringent measures to address the contamination and the de-listing of the site occurred despite the presence of huge quantities of paint sludge.

Compounding this troubling environmental situation, there are problems of abandoned and unstable mine shafts throughout the area. For almost 200 years, beginning in the 1700's, the area was operated as an extensive mining site for rich iron lodes. The mining operation was of such a large scale that Peters Mine alone had 17 levels reaching nearly 2,000 feet underground. When the mines were permanently closed in the 1950's, the area was riddled with abandoned tunnels and shafts, whose specific locations were not well documented.

During the period of the Committee's fact-finding process, 31 people had been displaced due to cave-ins of the tunnels and the appearance of sinkholes. According to Ken Hetrick, Ringwood Borough Manager³⁹, eighteen were initially housed in five trailers, 13 were housed in a hotel. Mr. Hetrick informed the Committee that Ringwood was paying for and managing the logistics of the relocations but intended to seek reimbursement from the Department of Community Affairs Small Cities program for relocation and temporary housing costs. As of December 2007, it is reported that no residents remain housed in trailers and the twenty three individuals unable to return to their homes because of sinkholes are residing in rental housing. Additionally, the township of Ringwood conducted magnetic testing to identify anomalies underground that could indicate potential sinkholes. Where anomalies were identified, a mining specialist drilled for voids. At the date of this report, no evidence of additional potential sinkholes has been identified in the neighborhood of concern (e.g., Van Dunk).

Testimony provided by the evacuated residents and others at a DEP and Governor's Office-sponsored community meeting suggested that the recent increase in cave-ins was stimulated by Superfund remediation activity and that those conducting this activity did not take the necessary precautions to prevent the appearance of sinkholes or the weakening of the mine shafts below the surface. Many of the residents and environmentalists think that the remediation activity has weakened the underground structures and resulted in the caving in of land, much of it in an area where Ramapough Indians have their homes. This issue is under question, but a full investigation into whether there is a connection between the remediation and the sinkholes has not been conducted, as it is unlikely that any way to identify a link is possible.

Testimony on the issue of sinkholes related the additional concern that state-recommended measures were not being taken to ensure residents' safety. While Mr. Rodger DeGroat was told by State officials to have a fence to surround a large (20' deep) sink hole in his back yard, and was asked to sign a form saying he was liable for any injuries incurred due to the sinkhole, agency representatives at the community meeting were not clear on whose responsibility it was to put up the fencing, nor how to expedite the process. In the meantime, the large hole posed a danger to the community and particularly children who play in the neighborhood.

There is no single authority in the area responsible to coordinate all of the various activities such as Superfund remediation, sinkhole remediation, resident evacuation, scheduling of activities, or notification of residents. It was clear in hearing the testimony of the various agencies, residents, and government officials, that no one person or entity is in charge. This exacerbates an already critical and volatile situation. Although an Interagency Team has been activated since the date of the meeting, coordinated by the Governor's Office and the DEP, the Committee recommends a single point person with the authority to direct agency actions be designated by the Governor.

Lawsuit

Although the Committee engaged in fact-finding on the issue of toxic contamination and sinkholes, testimony and information were somewhat limited due to on-going litigation. Individual members of the Ramapough community have retained attorneys to protect their interests and rights and a lawsuit, Wayne Mann, et al., vs. Ford Motor Company, et al. was filed in January 2006 by The Cochran Firm and Sullivan Papain Block McGrath & Cannavo (local counsel). The suit includes among the plaintiffs, "members of the historic Ramapough Mountain Indian Tribe, a Native American Tribe recognized by the State of New Jersey... to secure redress ...for damages suffered as a result of ...wrongful emission, release, discharge, storage, handling, processing, and/or disposal of toxic and hazardous substances at a location known as the Ringwood Mines Landfill Site ("Site"), and the environment surrounding the Site, including public lands and residential properties and/or what would become residential properties, and/or the failure to identify and/or clean up said toxic and hazardous substances." ⁴⁰

The 13-count lawsuit is an additional factor influencing the current situation. The schedule of remediation activity has been affected by the residents' participation in the lawsuit. The extent to which residents could provide information to the Committee was also limited by their participation in the lawsuit.

Health-related Concerns

Detailed information and reports on health issues in Ringwood and among the Ramapough were not available. However, numerous unusual cancers have been reported by residents and documented by the Ringwood Neighborhood Action Association and the Bergen Record in its 2005 Special Report: *Toxic Legacy*. There is a need for a health study and comprehensive documentation of health ailments as well as health monitoring

of residents and former residents of the Ringwood Mines Site. DHSS reports that they hope to conduct an epidemiological rather than individual study due to the complexities posed by the litigation.

Testing of soil in the area indicated that several toxic and carcinogenic substances such as arsenic, chromium and xylenes were present in levels as high as 100 times the state safety standards. Additionally, testing conducted by the EPA and the New Jersey DEP found elevated levels of lead in the food chain, specifically in small mammals such as mice, and wild carrots at the disposal site. The carrots are reportedly harvested by local residents for consumption. No evidence of site-related contamination was found in game animals. The test results are being analyzed jointly by the EPA, DEP, the federal Agency for Toxic Substances and Disease Registry (ATSDR) and the DHSS, and a written evaluation from the DHSS is forthcoming.

The findings from the expanded tests of additional small animals will also be added to the ATSDR's report on the Ringwood Mines area. In May 2006, the agency declared the site a public health hazard. It found residents' exposure to lead, arsenic and other contaminants may be linked to respiratory illnesses, neurological disorders, heart disease, rashes, diabetes and other problems in the community.⁴¹

Significant controversy exists about who is responsible for the current situation and how it should be addressed. Nonetheless, it is clearly a high priority problem with potentially devastating effects that requires attention of this Administration.

State Actions

Executive Order 96

On January 19, 2004, Governor James E. McGreevey signed the Environmental Justice Executive Order No. 96 that, among other things, established the multi-agency Environmental Justice Task Force (EJTF), as an advisory body "to make recommendations to State agency heads regarding actions to be taken to address environmental justice issues consistent with agencies' existing statutory and regulatory authority."⁴² This Task Force is to be convened by the commissioners of the departments of Environmental Protection (DEP) and Health and Senior Services (DHSS). Additionally, the Commissioner of the DEP "shall reconstitute the existing Environmental Justice Advisory Council to the DEP, whose mission shall be to make recommendations to the Commissioner and the Environmental Justice Task Force."⁴³

It also provided that, "Any community may file a petition with the Task Force that asserts that residents and workers in the community are subject to disproportionate adverse exposure to environmental health risks, or disproportionate adverse effects resulting from the implementation of laws affecting public health or the environment."⁴⁴ The petitions are to be reviewed by the task force and those deemed meritorious will require additional actions including public meetings, extensive consultation and the development and implementation of an action plan to reduce existing environmental burdens. The task

force monitors the implementation of action plans, making recommendations to State agencies as appropriate.

In a letter dated November 15, 2004, Wayne Mann, President of the Ringwood Neighborhood Action Association (RNAA), wrote to the DEP Commissioner and delivered a signed petition requesting designation as an Environmental Justice community, which would require the preparation of an action plan. In the letter, he cites a community survey with approximately 800 questions that RNAA conducted with nearly 600 residents. According to Mann, the surveys “reveal further that residents for many years have experienced extensive and chronic exposure to Ford’s waste, and that this exposure continues. Specifically, preliminary data reveal heightened levels of the following: respiratory disease, skin disease, female reproductive disorders, miscarriages, birth defects, learning disabilities, behavioral problems in children, ovarian cancers and tumors, cervical cancers and tumors, leukemia, colon and other cancers, neurological disorders”⁴⁵

The New Jersey Environmental Justice Task Force (EJTF) issued a Statement of Findings on March 24, 2005. The EJTF agreed that the petition fell within the scope of Executive Order No. 96 and identified the following items to be included in the action plan:

- The Environmental Justice Task Force supports the relisting of the Ringwood Mines area to the Superfund list, and encourages the community to apply for a Technical Assistance Grant through the U.S. Environmental Protection Agency (EPA);
- The Task Force will continue to monitor this case closely;
- Encourage the EPA to monitor the cleanup and to pay for NJDEP to audit the testing and cleanup of the site;
- The Department of Health and Senior Services will continue to develop a public health assessment to identify human exposures to site related contaminants;
- The Task Force will encourage lead agencies to provide periodic updates on the Ringwood Mines clean-up to residents;
- Encourage EPA to execute a Memorandum of Understanding with the community to clearly define testing parameters, and expected and potential outcomes of the testing that is planned on private property.⁴⁶

Due to the nature of the formation of the EJTF and its dependence on DEP and DHSS commissioners to convene it and set a meeting schedule, the change in State administrations created a delay in its operations. The first meeting took place in May 2007. The Committee supports the existence and purpose of the EJTF and sees an important role for it in the case of the Ringwood Superfund site, and especially the related interactions and coordination of efforts among various agencies at the state, local and federal levels. Additionally, while Executive Order 96 was established to remain in

effect for five years, the role of the EJTF would be able to function more consistently and continuously if provisions were in place to sustain its operations during gubernatorial transitions. Moreover, the issue of the Superfund site should remain a high priority of the EJTF.

Requests for Investigations

Bradley Campbell, when he was DEP Commissioner, requested an investigation into criminal culpability of Ford in this case. In a June 2005 letter to Christopher Christie, U.S. Attorney for New Jersey, he wrote, "These sludges present potential risk to both local residents and the environment....Moreover, the presence of this contamination appears in direct conflict with representations that Ford and its consultants made concerning remedial activity....Ford made false or misleading submissions to federal regulators"⁴⁷ about its cleanup of the Ringwood Superfund site.

In March 2006, Senators Menendez and Lautenberg, along with Congressman Pallone, sent a letter to Acting EPA Inspector General (IG) Bill Roderick asking him to investigate whether Ford mailed fraudulent test and lab reports, and also falsified custody records. They also asked the IG to investigate whether "environmental racism" was a factor in the "failure of the government to properly clean up the site."⁴⁸ On April 4, 2007, the EPA issued its final report and did not find evidence that racism was a factor. Specifically, it "did not find evidence to indicate that the EPA's actions or decision making to investigate or remediate environmental conditions at the Ringwood Mines/Landfill site were affected by the area's racial, cultural or socioeconomic status."⁴⁹ The report found "problems with communication and relationships impacted effective cooperation between the EPA and residents."⁵⁰

In response, Representative Pallone said in an official press release from Senator Menendez's office, "Ford dumped paint sludge on this community for years and EPA miserably failed when it came to cleaning up the site. It looks like the IG's method for figuring out whether racism was a factor involved asking the EPA, who said no. How much more obvious could this situation be? As the community members know, this site would have been cleaned up the first time had it been located in a more affluent area. Instead, the cleanup has dragged on for more than 20 years. The IG needs to go back to the drawing board and take a closer look at the injustices that took place at Ringwood."⁵¹

The Committee found the environmental threats to the Ramapough Lenape Indians to be urgent and dire. Coordinated action is required that is responsive to the needs of the residents of the affected area. The Committee believes that leadership for such action must come from government.

Recommendations:

- **Seek recovery of damages from Federal Government needed for multi-year clean-up, petitioning for a Special Master to oversee clean-up and protection of residents.**
- **Seek appointment of a single point person to oversee clean-up.**
- **Continue to conduct studies of health and safety issues.**
- **Seek compensation for damages to families for property and health issues.**
- **Continue to work with the community to identify and address on-going or emerging needs.**

Inter-governmental Issues and Opportunities

As part of its work, the Committee contacted key State agencies and commissions asking for documentation about any services or attention they provided to the state's American Indians, including the three designated tribes.⁵² The Committee followed up by convening a multi-agency meeting on December 14, 2006, hosted by Secretary of State Nina Mitchell Wells and Committee Co-Chair Mariko Lockhart. Most of the state agency representatives attending were surprised to learn of the issues affecting the tribes, but were interested and generated good suggestions about how state programs might benefit American Indians. It was noted, however, that the majority of state agency programs do not routinely address issues affecting the state's American Indian tribes.

The community diversity committees in several departments do not include tribal representation. They lack even informal connections to the tribes. Absent strong affirmative executive and legislative guidance, this *status quo* treatment will likely continue. Those agencies which have recently become involved, have done so as the result of the civil rights or environmental problems affecting the tribes.

Issues:

- ✓ There is not a uniform or coordinated way in which the departments of State government collect statistical data to identify New Jersey's American Indians, and to ascertain their needs.
- ✓ There is a general lack of understanding about who the American Indians are and where they are located.
- ✓ There was a consensus that cultural competency training would be helpful for agencies.
- ✓ Various departments said that they have many funding and job opportunities that American Indians may apply for, but to date they have not done outreach to make known these opportunities.

There was excellent attendance by key government agencies, including the departments of Children and Families, Commerce, Environmental Protection, Health and Senior Services, Human Services, Labor and Workforce Development, Law and Public Safety (including the State Police), and Personnel. The Committee met with these representatives to share information about the work of the Committee, and to learn how these State agencies work with the tribal groups. During this meeting agency representatives provided statistical data and reports, which have the potential to contribute to greater understanding and involvement by both Native American tribes and

State agencies, and to greater opportunities for obtaining external grant funding and other resources relevant to the concerns of the state's American Indian community. During the meeting, Committee member Autumn Wind Scott provided an overview of both current and longstanding issues faced by New Jersey's American Indian tribes. These included the protection of sacred land and burial grounds, formalized state recognition, and the education of all children and adults in New Jersey in a culturally sensitive and correct manner. Committee Co-Chair Mariko Lockhart then opened the discussion on topics of interest to the Committee.

First, there were questions about the accuracy in the collection of statistical data to identify American Indians. As noted by the Department of Commerce representative, racial identification relies on the voluntary effort of individuals in the work place to correctly self-identify their racial/ethnic background. Approximately 1 percent of the workforce presently declares themselves to be American Indians. It is unclear whether a verification-of-status process exists and, if so, how it works. The Department of Labor and Workforce Development representative noted that, using the 2005 Federal survey, there were 20,000 American Indians in New Jersey in 2005. The Department of Labor and Workforce Development would be willing to work with the Committee to help develop a protocol for gathering the data sought by the Committee. The Department of Health and Senior Services representative explained that the 2000 census was changed to allow for self-reported multi-racial identification, and provided options for individual tribes to be identified. There is a federal initiative to collect all health data in accordance with these new standards.

Second, there was consensus that there is a general lack of understanding about who New Jersey's American Indians are, and where they are located. The Department of Community Affairs representative suggested that people in various departments need to be better informed about the problems facing the American Indian community so that they begin to think and incorporate their needs as they write grants, design new programs and work with non-profit groups. The Department of Human Services representative explained that there is no general sense of where this population is geographically located. As a result, staff members from State government and non-profit agencies may not be aware that there are American Indians living in New Jersey.

Third, there was a general consensus that sensitivity or cultural competency training would be helpful for a variety of agencies. The State Police noted that a collaborative effort is needed, and that they would welcome more information to improve the accuracy of their depictions of needs and culture of the state's American Indians. The Superintendent of the State Police indicated an interest in visiting these communities to generate more dialogue and a better understanding. The Office of the Attorney General's Criminal Justice Division explained that they are working in conjunction with the New Jersey Commission on American Indian Affairs and the State's Department of Corrections to develop a "roll-call" training video disk (DVD) to be viewed by all law enforcement in the state in an effort to teach cultural competency about Native Americans. The DVD is expected to be finished in the fall of 2007. They are also planning to create a training curriculum to be used in the police academy.

Fourth, building trust with the American Indian communities was highlighted as perhaps the most important goal. There was agreement that each agency should designate a liaison to work with each community to aid in establishing trust. The Criminal Justice Unit within the Attorney General's Office volunteered to take the lead in informing the communities on rights and procedures for reporting bias crimes and to build trust. The Division of Civil Rights indicated a willingness to designate one person for this task. The Department of Transportation (DOT) reported that it had developed a campaign to celebrate cultural diversity and heritage, and that several DOT employees had identified themselves as American Indians for the first time. The Department of Community Affairs (DCA) suggested that representatives from State departments should make themselves available at the same time and place so that the community members could go, for example, from booth to booth, learning about the services. This would also facilitate brainstorming on the part of government officials (in charge of grants, etc.) who would be hearing stories first hand. The Office of the Public Advocate encouraged the Committee and the American Indian population to use the Public Advocate as a tool in achieving greater responsiveness from State agencies.

The meeting concluded with additional suggestions and comments from Committee members. It was also agreed that a list of the attendees would be circulated to facilitate further communication. Committee co-chair Lockhart noted that all the attendees would be considered contacts for the Committee and would receive further information on the Committee's work and the upcoming public hearings.

Recommendations:

- **There should be on-going dialogue between the New Jersey Commission on American Indian Affairs and the various departments of State government, best achieved by inclusion of the key commissioners and Attorney General as *ex-officio* members of a reconstituted New Jersey Commission.**
- **The departments should work with the Commission to provide demographic, socio-economic, health and service information that can be used to educate the public and develop, or make accessible, necessary programs.**
- **Educate the various departments about the tribes' cultural heritage, contributions and needs.**
- **The State agencies should work with the three tribal service centers to bring information and services to the communities.**
- **Through the Commission, American Indian groups should be advised of job openings and departmental recruitment efforts.**
- **Agencies should consider including American Indian issues and needs in requests for proposals.**
- **Issues related to the Department of Education, which was not in attendance, are addressed in a separate section of this report.**

The New Jersey Commission on American Indian Affairs

Background

The New Jersey Commission on Native American Affairs was created by P.L.1134, c. 295, and signed into law on December 22, 1995, by Governor Christine Todd Whitman. It was placed within the New Jersey Department of State. Later legislation changed the name to the New Jersey Commission on American Indian Affairs. Its first meeting was held on April 18, 1997 and it continues to meet regularly in Trenton, usually on the third Wednesday of the month. The Commission is covered by the Open Public Meetings Act.

The mission of the New Jersey Commission on American Indian Affairs is:

- To ensure that the American Indian Tribal members and communities within the State of New Jersey have full opportunities for their own cultural, educational, social, economic, physical, mental health, and welfare development, as well as continue to contribute to and participate in the on-going life and development of the State's extended family.
- To develop close communication among the state's American Indian communities, with the State and federal governments, educational institutions, organizations, as well as the people of the State in general.
- To promote understanding and knowledge about the history and culture of the American Indian communities of the State, in order to improve the quality of life for all people in the State of New Jersey.

Issues:

- ✓ The Commission has a growing agenda of state and local issues, but is not adequately staffed to address these issues. There is also a need for a grant writer to access program and service funding opportunities.
- ✓ The Commission would benefit from additional membership of public appointees with background in American Indian affairs, as well as representatives of the key State agencies related to the interests and needs of the American Indian groups.
- ✓ The mission of the Commission does not currently include legal and law enforcement issues or environmental justice.
- ✓ Currently, there is no State appropriated funding to support the work of the Commission or the three tribes and their tribal service centers.
- ✓ New Jersey's three tribes have been confronted with individuals and off-shoot groups claiming to be authentic New Jersey tribes and sometimes speaking in the name of the three tribes. This has entailed a great deal of work and financial costs for the three tribes and they are seeking a mechanism by which the Commission can assist the State with issues related to authentication, as in several other states.

There are nine members of the Commission: the Secretary of State, serving *ex officio*, and eight public members. The public members, who are recommended by their tribes and organizations and appointed by the Governor, consist of two members from each of the following: Nanticoke Lenni-Lenape Indians, Powhatan Renape Indians, Ramapough Mountain Lenape Nation, and Inter-Tribal People. Inter-Tribal People refers to American Indian people who reside in New Jersey, but are members of federally and/or State-recognized tribes in other states. Lewis J. Pierce, Jr. is the current Chair of the Commission. The current members of the Commission are: Chairman Pierce and Urie Ridgeway representing the Nanticoke Lenni-Lenape Tribe; JoAnne Hawkins and Lorraine Greene representing the Powhatan Renape Tribe; Autumn Wind Scott and Eileen DeFreece representing the Ramapo Mountain Lenape Nation; and Dr. Helen Kanaieson Rende and Marvin Davis representing the Inter-Tribal People. (Note that there is representation of the New Jersey Commission on the New Jersey Committee on Native American Community Affairs. Ms. Autumn Wind Scott is a public member and Mr. Lewis Pierce is an *ex officio* member. Secretary of State Nina Mitchell Wells serves in an *ex officio* capacity.)

The Commission serves as a liaison among the tribes and the State and Federal governments. It is empowered to develop programs and projects to further understanding of New Jersey's American Indian history and culture. The Committee heard extensive testimony and made its own findings (discussed elsewhere in this report) that, while the Commission is a much-needed forum for discussion, it has always lacked even modest staffing and other financial resources to achieve its objectives.

Current Issues Facing the Commission

As noted earlier, major on-going concerns center on the fatal shooting of Emil Mann of the Ramapough Lenape Indian Nation by a parks officer, and major environmental issues on the Ramapo Mountain based on the presence of a major Superfund site. Attorney General Zulima Farber met with the Commission at its April 19, 2006 meeting, and provided an outline of all of the key events and issues. She pledged to continue to communicate with the Commission and the Ramapough Lenape Nation, and she invited Commission members to reach out to her as their needs dictated. One of the results of this initial meeting was the development of a strong collaborative effort between the Commission and the Department of Law and Public Safety in providing information and sensitizing law enforcement offices related to interaction with the American Indians. A roll call DVD is being developed by the Commission, the Department of Law and Public Safety, and the Department of Corrections film unit.

There are on-going concerns about individuals in New Jersey who have represented themselves as American Indians and have made claims to land based on their ancestral heritage. These issues have consumed a great deal of time and resources of the individual tribal groups. This matter was also discussed with the Attorney General.

However, the Commission has several other priorities on its agenda as well, including:

1. policy issues related to historically accurate and relevant educational curricula;
2. bullying and harassment of American Indian children in school settings;
3. the use of American Indian logos and mascots by school districts;
4. development of a law enforcement roll call DVD, in cooperation with the Department of Law and Public Safety's Office of Bias Crime;
5. on-going and unmet social service needs identified by the American Indian communities;
6. administrative issues regarding the work of the Commission; and
7. American Indian Child Welfare Act regarding foster and adoptive care of children of American Indian background.

Representatives of the Division of Youth and Family Services met with the Commission in 2006 and 2007 to discuss foster care and adoption issues. Then-Acting Commissioner of Education, Ms. Lucille Davy, met with the group at its August 2006 meeting, along with Secretary of State Wells, to discuss this range of educational issues and a pledge was made to develop an on-going liaison between the New Jersey Department of Education and the Commission to address these issues. The issues related to the Department of Education remain unresolved and the Commission seeks on-going dialogue on its educational agenda. (See below.)

Service needs: These include matters related to education, employment, entrepreneurial opportunities, health and social services, language and cultural preservation. Representatives of key departments of State government are invited to meet with the Commission at each of its meetings. However, the Committee recommends a more structured representation of State agencies on a reconstituted Commission.

Administrative issues: The Commission is eager to improve its grant-writing capacity in an effort to increase the possibilities for State, federal, and foundation financial support for program and service needs.

Strengthening the Commission

The members of the Commission who serve on the Committee bring a history of involvement with the Commission that has enabled them to provide perspective on the Commission and how its mission, operations, staffing and membership structure could be strengthened and enhanced. The Committee finds that the work of the Commission will be more effective with the changes recommended below.

The mission: The mission statement regarding cultural, education, social, economic, health and welfare development remains relevant, as does the section on communication and promotion of understanding and knowledge. However, the Committee recommends that language be added concerning legal and law enforcement issues, as well as issues related to environmental justice.

Work of the Commission and staffing: The Committee recommends that the Commission remain within the Department of State, which has a long history of hosting and supporting the Commission. The Department has also demonstrated, through the Secretary of State, the ability to work with each of the departments of State government which will have a role in addressing the key elements of this report. In order for the Commission to operate more effectively, staffing is required. To address the responsibilities of the Commission, the Committee recommends a full-time paid staff of three individuals. One potential staff configuration would be a Program Development Specialist (Range 26), an Education Planner (Range 22), and a Principal Clerk Typist. At the current starting salaries and fringe benefit rates for these ranges, the initial cost would be approximately \$250,000 per year. The Committee also recommends funding to support the work of the three tribal service centers. Each of the three tribes would be able to apply for up to \$200,000 of funding that would be administered by the Department of State. The costs of Commission staffing, plus the support of the three tribal service centers (in currently available space), at \$200,000 per center, will require a total budget of approximately \$850,000. In recognition of the expected tight budget situation for FY 2009, we recommend that at least \$100,000 per annum be included in the proposed budget appropriation in support of the tribal centers and the State Commission as a first step toward an adequate funding level for these purposes.

Staffing would enable the Commission to provide greater:

1. analytical and administrative support to the Commission membership and tribal groups;
2. grant-writing expertise, which has the potential to augment the proposed State funding by obtaining federal government, state, and foundation funding for initiatives;
3. educational outreach to New Jersey's American Indians and to the general public;
4. ability to respond to requests for assistance in all of the mission areas; and
5. capacity to track, review, and respond to the on-going work of the various department of State government as they develop programs and initiatives in response to the issues raised in this report.

On the issue of State recognition, the Commission shall provide guidance and advice to facilitate State efforts to implement the recommendations of the Committee. The issue of authentication of tribal groups that may seek future recognition in New Jersey has been mentioned earlier in this report, and it has been the focus of past legislative efforts. The Committee recommends that the Commission develop the protocol to be used to aid the State in reviewing and authenticating future requests for recognition by American Indian groups claiming indigenous ancestry in New Jersey.

Membership structure: The Committee recommends that the membership of the Commission be revised and expanded. The representation of New Jersey's three tribal groups by two designated voting members per tribe shall continue (a total of six voting members). In addition, two voting seats shall be maintained for Inter-tribal representation of American Indian groups not indigenous to New Jersey. The Commission shall be expanded to include three public members who have a commitment to American Indian

affairs, but who may not be of American Indian ancestry. Public members shall be expanded to include the Secretary of State, the Attorney General, and commissioners of the following state agencies: Children and Families, Community Affairs, Education, Environmental Protection, Health and Senior Services, Human Services, and Labor and Workforce Development. All of these State officials shall serve in an *ex officio* capacity.

Recommendations:

Strengthen the New Jersey Commission on American Indian Affairs.

- **The Commission shall remain within the New Jersey Department of State and should be made permanent as a line item agency and receive adequate funding and staffing. Provision should also be made for funding of the three tribal service centers.**
- **A key role of one staff will be to support and monitor the on-going work of the various departments of State government as they develop programs and initiatives in response to the issues raised in this report. One staff shall work extensively on grant and resource development.**
- **The membership of the Commission should be revised and expanded to include three public members who have a strong history of commitment to American Indian affairs, but who may not be of American Indian ancestry.**
- **The membership shall be further expanded to include *ex-officio* representatives of key State agencies, including the Secretary of State, the Attorney General and commissioners of Children and Families, Community Affairs, Education, Environmental Protection, Health and Senior Services, Human Services, and Labor and Workforce Development.**
- **The mission of the Commission shall be expanded to include legal and law enforcement issues, as well as environmental justice.**

Civil Rights

The establishment of the Committee by Executive Order 24 was in direct response to concerns expressed by the Ramapough Lenape Indian Nation following the shooting and subsequent death of one of their members in an encounter with New Jersey State Park Police. The outrage and concerns voiced by tribal members were spurred by the incident, which they viewed as a case of police discrimination, profiling, and excessive force. While the Committee was charged with looking into a wide spectrum of issues affecting Native American tribes in the state, and specifically *not* charged with investigating the shooting incident which was the subject of a grand jury investigation, the issue of civil rights violation and racial discrimination remained one of our top concerns.

The Committee heard consistent testimony of institutional racial discrimination, which was reminiscent of the pre-civil rights era. Stories of surprisingly blatant racism, in schools and by public employees in other settings, were a common thread. Compounding these stories of overt racism is the history of oppression and fear among the state's American Indians, which has made them more reluctant to file complaints. Many of those who testified before the Committee told of being raised to hide their Indian identity for fear of ridicule and abuse.

Issues:

- ✓ The Committee found that in looking at the spectrum of civil rights and law enforcement issues, there was a wide range of perceptions regarding the nature of interactions involving Native Americans and public officials, and the presence of discrimination, profiling, and excessive force. Tribal members report long histories of these concerns, while local law enforcement agencies assert that this is not the case.
- ✓ The State Police expressed strong interest in greater information sharing, community outreach, and recruitment of American Indians onto its force.
- ✓ The Attorney General's Office stated that no American Indians have reported a bias crime of racial discrimination, which suggests reluctance by victims and inaccurate data due to underreporting.

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Law Enforcement

On April 1, 2006, Emil Mann, a Ramapough Lenape Indian, was shot at German House, in Mahwah, by a State Park police officer. Mann, who was unarmed, was attempting to break up an altercation between his cousin and another State Park Police Officer. He died nine days later in Hackensack University Medical Center as a result of his injuries.

According to Chief Batelli of the Mahwah Police, the park police were looking for violators of the state park's ban on all-terrain vehicles. Among the questions in the official investigation are whether the use of deadly force was necessary, and whether the park police were in their jurisdiction. German House is on county property.

In 911 tapes released to the public, Mahwah police are recorded as saying, "Apparently, it's the mountain people up there."⁵³ Former Ramapough Chief Anthony Van Dunk stated that the use of the term "mountain people" is derogatory, and is evidence that the Ramapough Tribe is being targeted for discrimination. He stated, "It's obvious that we're treated specially because of the terms they used to describe us."⁵⁴ Many tribal members have expressed outrage at the incident, and concern that it reflects on-going discrimination against the Ramapough Lenape Indians. The Committee heard testimony from several tribal members in this regard.

In addition to the question of racial discrimination by visual perception of race, several tribal members stated that they are discriminated against based on their last names, which often indicate their tribal background. In this small community, place of residence (e.g., Stag Hill) and last name are commonly used proxies for race. The names Van Dunk, DeGroat, DeFreece and Mann, are family names of Ramapough Lenape Indians living in and around the towns of Mahwah and Ringwood, New Jersey and Hillburn, New York.⁵⁵

The Committee heard testimony that tribal members believe they are stopped by police at a rate disproportionate to the rest of the local population. Furthermore, it is the belief of some tribal members that, when asked to give their names, they become victims of harsher treatment than merited by the traffic stop.

In a letter written to the Committee by Ramapough tribal member Marcella Perrano, dated January 9, 2007, she stated that in reference to shooting of Emil Mann,

We are still waiting for the Governor to reprimand the 15 local police departments who came into our neighborhood that day. They came out of their jurisdiction, with assault weapons to terrorize us beyond belief! Had it been in a neighborhood anywhere else, this type of racism would have never happened. So, how do you combat the police when they abuse us as well? Yes, we have issues... major ones!

Following up on these concerns, the Committee requested meetings with the mayors and chiefs of police of Mahwah and Ringwood.^{56,57} On February 13, 2007, the Committee co-chairs Grant and Lockhart and Deputy Attorney General Megan Cordoma met in

Mahwah City Hall with Richard J. Martel, Mayor of Mahwah, James N. Batelli, Chief of Police, Lieutenant Bruce Kuipers, Office of Professional Standards/Internal Affairs, Detective Lieutenant Martin Clancy, Investigative Bureau, and Brian Campion, Township Administrator. The Mayor expressed the belief that the relationship between the Township and the Ramapough was in good standing, and he stated that he was not aware of any major issues needing attention. When asked how to get beyond the perception that law enforcement discriminates against tribal members and/or American Indians in general, Chief Batelli replied that he did not feel there was a basis for this perception in Mahwah. He and others in the Department believe that over recent years, great strides were made with building positive communication between law enforcement and the tribe. It is their observation that, to the detriment of the Mahwah Police Department, all law enforcement in the area has been adversely affected by Emil Mann's death. Cultural competency classes are required at the Police Academy; officers are encouraged to participate as citizens (not in uniform) at community events such as clean-ups; and they tried to implement a neighborhood watch. Chief Batelli perceives that the Ramapough Tribe has not been actively interested or open to law enforcement's community policing involvement.

A meeting in Ringwood was held on February 20, 2007, attended by Committee co-chair Grant and Committee members Edwards and Scott, in addition to Joanne Atlas, Mayor of Ringwood, Ken Hetrick, Township Manager, Wenke Taule, Township Councilwoman, Linda Schaefer, Councilwoman, Bernard Lombardo, Chief of Police, Ringwood, Richard Mankur, Captain Police Department, and residents Ken Van Dunk, Vivian Mulligan, and Maxine Mulligan. In discussions related to the question of discrimination, Chief Lombardo said his officers had gone through sensitivity training at the Police Academy. He was adamant that there was no discrimination, profiling, unwarranted police stops or searches of tribal members.

In follow up, written correspondence to the Committee from Councilwoman and former Mayor Wenke Taule noted an on-going history of tension between the township and the Ramapough Lenape Nation that she considered discriminatory. In her email she writes,

On Martin Luther King's Birthday 2004, Ringwood's property maintenance officer and two police officers swept into Upper Ringwood and issued 160 unregistered car tickets. During the ticketing I was told that some residents were treated with disrespect. Any warnings were given over a year prior to the sweep. I personally will never believe Chief Lombardo's assertion yesterday that the sweep was a "mistake."

She describes several instances of prejudice and racist attitudes among Township Councilors and says, "Ringwood's stereotypes and misunderstanding of its Upper Ringwood community is deep."⁵⁸

Additional fact-finding on the issue of racial profiling by law enforcement took place on December 14, 2006 at a meeting the Committee convened with representatives from State agencies. When the question of racial discrimination by law enforcement was raised, the

Superintendent of the New Jersey State Police indicated interest and willingness to address the issue of discrimination and racial profiling of Native Americans. According to the Attorney General's office, no Native Americans have reported a bias crime or racial discrimination. There were several expressed views as to why this might be. One reason is that more outreach is needed to inform the American Indian community about the statewide reporting system for bias crime and discrimination. The other is a history of discrimination against American Indians that has led them to refrain from calling attention to themselves. As stated in this meeting by Lewis Pierce, a Nanticoke Lenape Indian and current Chair of the New Jersey Commission on American Indian Affairs and *ex officio* member of this Committee, Native Americans were not recognized as citizens until 1924. Before that, Native Americans in New Jersey survived by hiding, and they were not allowed to practice their religion until 1978.⁵⁹ Mr. Pierce notes that his generation is the first that could openly tell people who they are. Many elders still feel it is dangerous to report bias crimes, or even to let people know they are American Indians.

State Police officials present at the meeting stated that they would welcome more information about New Jersey's tribes to help educate and inform the department. They would also like to increase and improve recruitment of American Indians to the force. The Superintendent indicated that there are currently 22 Native Americans employed by the State Police. He invited the Committee to talk to the command staff. He also expressed interest in visiting the Native American communities. The Committee is pleased to report that on June 21, 2007 there was a day-long follow-up meeting of the New Jersey Commission on American Indian Affairs with senior members of the New Jersey State Police, including Superintendent Fuentes, Major Wendy Galloway, Lt. Joseph Geleta, and the new Director of the Parks Police, Frank Rogers. Secretary of State Wells and Assistant Secretary of State Kathy Kisko also were in attendance. The meeting covered planning for joint community outreach, disaster response education, and recruitment. There will be on-going communication, planning, and implementation of joint initiatives.

The New Jersey Attorney General's office, the New Jersey Commission on American Indian Affairs, and the State's Department of Corrections have collaborated to develop a training curriculum and materials (e.g., "roll call" DVD) on cultural competency with American Indians. These materials can and should be shared and/or adapted for all State Agencies, including the State Police.

The perspective on police-community relations varies widely between the viewpoint of tribal members and those of law enforcement. It is clear that additional work must be done to improve communication and relationships between local law enforcement and the state's American Indian tribes.

Recommendations:

- **Review of law enforcement cultural competency training to ensure sufficient content on American Indian issues.**
- **Develop culturally appropriate training materials for state law enforcement as well as other State agencies.**
- **Maintain on-going communication between the American Indian community and local government and law enforcement.**
- **Ensure follow-up to NJ State Police interest in increased interaction with and recruitment of American Indians.**
- **Establish annual American Indian celebration.**

Education

Background

The Committee heard from a wide range of American Indian adults and youths regarding educational issues that have persisted over several generations in New Jersey. Many of these issues were discussed at public hearings at Ramapo College and Gloucester County Community College, as well as during site visits to the Ramapough Lenape Indian Nation and Nanticoke Lenni-Lenape Tribe.

Issues:

- ✓ Lack of appropriate curricular materials to assist in the teaching of American Indian culture, history, and current tribal life in New Jersey.
- ✓ Use of American Indian logos as mascots by New Jersey schools for athletic events, and the inappropriate naming of schools for American Indian tribes without cultural and historical ties or context.
- ✓ Lack of designation of an American Indian category on school registration forms, so that Native American students can properly and accurately indicate their heritage.
- ✓ Bullying of American Indian students who indicate their heritage or demonstrate it through their manner of dress (for example, by wearing their hair in braids).
- ✓ Statements by uninformed or bigoted teachers who claim that there are no American Indian tribal groups in New Jersey, and proclaim that Native American students must be members of other racial or ethnic groups.
- ✓ Lack of financial support and proper career counseling for American Indian students, unlike the guidance and scholarship assistance made available to Native Americans in other states that we reviewed.

Lack of appropriate curricular materials. The Committee was informed that there are no appropriate or authorized curricular materials made available by the New Jersey Department of Education, although American Indian studies are cited in the Core Curriculum Content Standards at several grade levels (see below). Committee members received information from teachers who stated that they had to seek materials at their local bookstores. The New Jersey Commission on American Indian Affairs has also met with the social studies curriculum specialist at the State's Department of Education who indicated that there were no materials provided by the department for this subject area.

The following is excerpted from The New Jersey Core Curriculum Content Standards – Social Studies

In grades K-12 it is required that students recognize the names of major figures in American history, including George Washington, Abraham Lincoln, Sacajawea, Harriet Tubman, etc. and discuss the contributions of important women, African Americans, and Native Americans to United States and New Jersey history

In grades 3 – 4, students compare the major early culture of the Lenape that existed in the region that became New Jersey prior to contact with the Europeans.

In grades 5 – 8, in the category of “Many Worlds Meet,” students compare the political, social, economic, and religious systems of Africans, Europeans, and Native Americans after 1492. They will also describe the migration of the ancestors of the Lenape Indians and their culture at the time of first contact with Europeans. In “Colonization and Settlement” (1585-1763) they examine the interactions between Native Americans and European settlers, such as agriculture, trade, cultural exchanges, military alliances, and Native American resistance to colonization. In the section “Revolution and the New Nation” (1754-1820), students analyze the causes and consequences of continuing conflict between tribes and colonists (e.g., Tecumseh’s rebellion). In “Expansion and Reform,” (1801-1861) students study continuing territorial expansion and settlement of the frontier, including conflicts with Native Americans, e.g. Black Hawk War, and the Trail of Tears.

In grades 9 – 12, in “Colonization and Settlement” (1585–1763), students analyze how colonial experiences caused changes in the economic institutions of Europe, Africa, and the Native American population, including slavery. In “Expansion and Reform” (1801-1861) students analyze territorial expansion, settlement of the frontier, and conflicts with Native Americans. In the “Emergence of Modern America” (1890–1930) students discuss the role of Chief Sitting Bull, the Wounded Knee Tragedy of 1890, and the suppression of the American Indian revivalist movement known as Ghost Dance. For “the Great Depression and World War II” (1929–1945) there is no reference to American Indians (though the contributions of other groups to World War II are referenced). In the Postwar Years (1945–1970’s) there is reference to the American Indian Movement (AIM).

In summary, there is little acknowledgment of American Indian history and culture in the core curriculum content standards, including those specific to New Jersey. There is no reference to the role of American Indians in World War II, particularly in the raising of the flag on Iwo Jima and the extraordinary use of Native language in operational codes. Finally, we note the remarkable lack of any reference to American Indians in the more contemporary period and virtually no reference to Eastern American tribal groups.

Use of American Indian logos and mascots and naming of school buildings. The Committee received reports of several instances in which students, dressed in purportedly American Indian outfits, performed as mascots or cheerleaders at school athletic events. There were also profiles of Indian heads on some gymnasium floors. This New Jersey issue, which mirrors the national issue related to college athletics, has not been addressed by the New Jersey Department of Education through policy or professional guidance. The New Jersey Commission on American Indian Affairs met on August 3, 2006, with then-Acting Commissioner Lucille Davy to discuss these issues. She stated that she shared the concerns of the Commission and would work with the school superintendents to bring about change. The Commission reported that it had not received follow-up response on the issues. An effort to address the use American Indian names on school buildings has been initiated by Assembly Majority Leader Bonnie Watson Coleman in past legislative sessions. The resolution has not passed to date. This issue was also discussed with Acting Commissioner Davy, who indicated she would review this matter.

Inability to register as an American Indian on school registration demographic forms. At the Committee's public hearings students referred to their concerns that they did not have the option to indicate their American Indian heritage on school forms. They are sometimes advised to fill in "Other." The Committee found this to be a surprising deficiency and would like to see this addressed by the New Jersey Department of Education.

Bullying of American Indian students. This issue crossed generations and was referred to by both adults long out of school and current students. The NJDOE does provide guidance to school districts on the issue of bullying. Legislation (NJSA 18A:37-13 et seq.) enacted on September 6, 2002, requires each school district to adopt a policy prohibiting harassment, intimidation and bullying on school property, at school-sponsored functions and on school buses. To assist each local board of education, the legislation required the Commissioner of Education to develop and issue a model policy applicable to grade kindergarten through twelve. Additionally, on August 3, 2005, the New Jersey State Board of Education adopted regulations on intimidation, harassment, and bullying. This document is a revision of the model policy, and can be found on the NJDOE website (<http://www.state.nj.us/education/parents/bully.htm>).

The Sample Model Policy Prohibiting Harassment, Intimidation and Bullying and Issues for Consideration, states that:

Harassment, intimidation or bullying means any gesture or written, verbal or physical act that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory handicap, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus... (Quote from the website above.)

While the Committee finds this legislation and sample policy to be important and helpful, we think it is important to hear directly from the NJDOE as to the status of implementation of the policy, and what efforts have been taken to inform school personnel, parents, and students on these policies.

Inaccurate and uninformed statements by teachers regarding the presence and role of American Indians in New Jersey. The Committee heard directly from a student in a highly regarded school district that his teacher had stated that “...he was not American Indian,” and used racially charged comments to make the point. (From the public hearing at Gloucester County Community College.) The Committee also heard that certain family names in the Ramapough area were historically viewed as American Indian, and that children with those names were frequently treated as if they did not have academic potential. Finally, the Committee was also informed that during the tenure of one school administrator, students of Ramapough Indian background were routinely given paperwork to leave school at age 16.

Lack of specific scholarship support of American Indian students in New Jersey. The State of New Jersey does not provide special scholarship assistance to American Indian students. However, a review of various states has identified a number of scholarship programs that could be adapted to New Jersey. In the states surveyed (see below), the scholarship assistance is not linked to federal recognition. Students from State-only recognized tribes are eligible for the scholarship assistance. The Committee recommends that New Jersey develop comparable programs based on one or more of these model programs:

Alabama: Taxpayers receive a tax refund when designating a contribution to the Alabama Indian Affairs Commission for educational scholarships.

Massachusetts: A tuition waiver program is offered to Native American students at state colleges and universities. The Massachusetts Commission on Indian Affairs assists by certifying that the individuals are of Native American descent and eligible for the waiver, using membership in Massachusetts tribal groups (tribe, band, or clan) acknowledged by the Commission. There is also a process by which individuals from outside of Massachusetts are verified as being state or federally recognized and are therefore also eligible.

Michigan: Michigan public community colleges, public universities, and federally and tribally controlled community colleges must waive tuition for any North American Indian who qualifies for admission as a full-time, part-time or summer school student, and is a legal resident of the state for not less than 12 consecutive months.

North Carolina: The “Supporting our Native Students Program” provides financial assistance, i.e., book vouchers and payment for each successfully completed semester to American Indian students. Eligible students are: U.S. citizens; residents of North Carolina; at least 17 years of age; enrolled or accepted as a full-time student at an accredited North Carolina community college or university; an enrolled member of a

North Carolina State-recognized Indian tribe; maintaining a minimum grade point average (GPA) of 2.0 on a 4.0 scale.

Near the end of its deliberations, the Committee was advised of communication from the Nanticoke Lenni-Lenape tribe to the Commissioner of the NJ Department of Environmental Protection concerning their efforts to acquire land for an Interpretive Center. In an email letter dated May 21, 2007 from Rev. John Norwood on behalf of Chief Mark Gould and the Tribal Council, the tribe discussed the Eagle Manor site in Cumberland County currently under contract with Green Acres. The objective is to acquire the site and establish a tribal educational and cultural center with a nature preserve to be open to the public. Although this issue was not part of the deliberations of the Committee, the Committee recommends that the NJ Commission on American Indian Affairs, continue to follow this matter with the NJ DEP.

Recommendations:

- **The New Jersey Department of Education should immediately secure and then implement culturally accurate and sensitive curriculum (K-12). NJDOE should work with appropriate curriculum specialists to identify sound, accurate educational materials and put them to use immediately. Also, NJDOE should urge correction of inaccurate, derogatory information in curricula and make recommendations concerning the optimal grade levels for teaching of new curricula.**
- **Establish a New Jersey American Indian Scholarship Program. We recommend that a scholarship, loan, or tuition reduction program for NJ residents who are members of American Indian tribes be created through public or private donations such as exist in other states.**
- **Work with the New Jersey Department of Education to address issues related to use of American Indian logos and mascots for athletic events, bullying and harassment of students of American Indian background, and providing workshops for teachers on American Indian history, culture, and current role in the State of New Jersey.**

Employment

Background

In all of its interviews, hearings and site visits, the Committee heard pleas to improve the economic situation of Native Americans in the state. This was expressed in various ways, such as:

1. the desire for tribal control over the distribution of food and assistance provided by federal action agencies in order to increase use of these services;
2. the lack of easy access to affordable healthcare;
3. the low income levels of tribal members; and
4. the devaluation of their homes (e.g., the Ramapough residents on the Superfund site) and the lack of jobs, job skills and ways to invest their labor back into their own communities.

Issues:

- ✓ Career counseling and job training, as well as job opportunities, are needed in the American Indian communities.
- ✓ A comprehensive approach is desired in order for tribal members to be able to work in their own communities and help their own people.

According to the New Jersey Department of Labor and Workforce Development's Division of Labor Market & Demographic Research, in 2005, there were an estimated 20,745 New Jersey residents that were American Indian/Alaska Native (one race) (AIAN). This represents 0.24 percent of New Jersey's total population of 8,521,427. An estimated 43,926 New Jersey residents were AIAN combined with one or more races. The AIAN population 16 years and over was 13,569 of which 8,342 were considered in the labor force. Of those in the labor force, 890 were unemployed. The AIAN population in the labor force participated in all categories of industries, with the largest numbers in educational, health and social services (1,383), retail trade (956), manufacturing (942), arts, entertainment, recreation, accommodation and food services (680) and professional, scientific, management, administrative, and waste management services (618).

When we look at educational levels of the New Jersey AIAN population, in almost all categories, the NJAIAN population has lower percentages of educational completion. The information indicates that, for the most part, a higher percentage of Native Americans and Alaska Natives have significantly less educational attainment than New Jersey residents on average. The following represents educational attainment of AIAN population as compared to all New Jersey residents:

- 1,480 or 11.4% (5.3% for all New Jersey residents) have less than a 9th grade education.
- 1,851 or 14% (8.4% for all New Jersey residents) attended high school, but received no diploma.
- 4,926 or 37.8% (29.5% for all New Jersey residents) were high school graduates (includes equivalency).
- 2,358 or 18.1% (16.4% for all New Jersey residents) had some college.
- 610 or 4.7% (6.2% for all New Jersey residents) attained an Associate's degree.
- 1,459 or 11.2% (21.7% for all New Jersey residents) attained a Bachelor's degree.
- 373 or 2.9% (12.5% for all New Jersey residents) attained a graduate degree.

The income statistics reflect the lower economic status of AIAN residents in New Jersey:

- For the total New Jersey AIAN population, per capita income in 2005 was \$19,133 while per capita income for total New Jersey population was \$31,471.
- An estimated 2,983 (14.4%) of the AIAN population had income below the poverty level while the total New Jersey population had 8.7% below poverty level.

Numerous factors contribute to the overall low socioeconomic level of many tribal members. Longstanding isolation from the majority community has hindered the Ramapough Lenape Indians' educational and work opportunities. For example, the Ramapough Lenape fled from increasing encroachment from white settlers and into the mountains and rocky terrain almost two centuries ago. There they made do on rocky land and depended heavily on subsistence fishing and hunting. Today, toxic contamination of their community and high levels of lead found in local game, prevent them from counting on local wildlife for food or endanger their health when they do.

One major source of employment for the Ramapough Lenape was the mines that operated from the 1700's up until the 1930's. The closing of the mines eliminated this source of jobs for them.

Fear of persecution and discrimination in the schools and local community has been a deterrent for all of the tribes we met with. Those tribal members with college degrees who testified before the Committee stressed that their education was achieved despite discrimination and lack of support by school staff and administrators. Some may have hidden their Indian identity by changing their last names or otherwise denying Native American heritage.

On the subject of employment and the Nanticoke Lenni-Lenape, the Committee received written comments in support of the Nanticoke Lenni-Lenape Indians from Amy Hill Hearth, an author and playwright. She recently completed a book that "tells the story of the tribe focusing on one of its most cherished elders, the mother of Chief Mark Quiet Hawk Gould."⁶⁰ Among her comments, she notes that the Nanticoke, "...are determined to find traditional employment opportunities, such as in the building trades, for their

people. Affirmation of their state recognition would help them to achieve those commendable goals.”

The recognition issue, as detailed in the legal section above, also affects tribal members’ ability to earn income through the sale of arts and crafts. Unable to affix the official label of authenticity, their artwork is less valuable and commands lower prices in the marketplace.

Dwaine Perry, Chief of the Ramapough Lenape Indian Nation, testified at the public meeting with Tribal Elders on the need for job training and workforce development assistance. Regarding these services, he stated that, “It needs to be focused on whereby a number of those skills are redirected back into the community, not just Dwaine works down in Hackensack and he’s got... a parking spot. Dwaine needs to be walking around Stag Hill, walking up around them mine holes, holding the hands of our elders and our young people, saying hey we can do it.” It is evident that career counseling and job training are needed in the American Indian communities. More specifically, a comprehensive approach is desired in order for tribal members to be able to work in their own communities and help their own people. This need was expressed by each of the three Tribes.

Workforce Investment Act (WIA)

A WIA grant to provide career counseling, job training and placement services to Native Americans in New Jersey had been administered by the Powhatan Renape Tribe until recently. The Powhatan were deemed ineligible to continue to administer the grant because they did not have all their audited financial statements completed.

The grant is now being administered by the Rhode Island Indian Council, which is charged with continuing to provide services to Native Americans in New Jersey. The Council initially hired a member of the Inter-Tribal People in New Jersey, then, more recently, reassigned the liaison role to the Ramapough Lenape Indian Nation to provide WIA services in New Jersey.

Further development of these services in the state is very important. Additionally, there may be ways to maximize resources through coordination and collaboration with the New Jersey Department of Labor and Workforce Development.

Recommendations:

- **Provide comprehensive career counseling, job training and placement services with a goal of long-term economic development of the tribal communities.**
- **Further development of current and new services provided by the federal Workforce Investment Act for Native Americans program administered by the Rhode Island Indian Council as well as increased coordination with the workforce development services provided through the NJ Department of Labor and Workforce Development.**

Fair Housing

Background

The concept of “fair housing” is generally taken to mean the absence of discrimination in obtaining housing. That is, access to adequate housing and neighborhood services by all individuals in all communities, without regard to race, ethnicity, gender, sexual orientation, age, or income. As such, no problems of a traditional “fair housing” nature were raised for the Committee during its information-gathering activities. However, other housing concerns were surfaced that suggested that Native Americans had not been treated fairly in their pursuit of housing opportunities.

Issues:

- ✓ While many New Jerseyans risk displacement from their homes due to increasing property taxes and high cost housing development, there are unique economic pressures forcing the indigenous tribal residents to lose their modest properties. Unprecedented, accelerated increased property taxes and real estate development have placed pressure on families to give up their parcels of privately held land.
- ✓ Ramapough residents near and in the Superfund site are facing devaluation of their homes and possible permanent displacement due to environmental pollution.
- ✓ Tribal cemeteries and open-air places of worship are also threatened.

Current Issues

Most of the major concerns centered on the condemned housing in the Superfund site area. In particular, the members of the Ramapough Lenape Indian community are fearful that they will be forced to leave their homes, and they do not feel that they will ever be allowed to return. Moreover, several of these residents have had their lives directly jeopardized as a result of sinkholes that have developed and threaten homes in the area surrounding the toxic clean-up site. The problems have been further compounded in that while families have been forced to move out and abandon their homes (and much of their personal belongings), they are still required to meet mortgage and other housing costs, without any assistance from the state or federal government. The state, with the assistance of the federal government if possible, should move to remedy this situation immediately to limit the already extensive hardships experienced by these families by providing financial assistance (housing subsidies and/or low-interest loans) until the legal issues surrounding the clean up and the sinkholes are adjudicated.

Many New Jersey residents risk displacement from their homes due to increasing property taxes and new high-cost, high-density development. These pressures were most acute in areas where tribal families have lived for three centuries on previously undesirable small parcels of land. Native American tribal members are facing unprecedented acceleration of property taxes and aggressive real estate practices which are forcing them from their traditional homes and areas of worship. For example, the Committee heard that the impacts of recent road and other physical infrastructure improvements in the area have had the effect of increasing access and real estate values for properties owned by Native Americans and other residents in the communities where the Ramapough Lenape Indians currently reside. Local zoning laws have been used to restrict land use and development opportunities for many of the properties owned by Native Americans. However, these zoning restrictions have been removed or relaxed when property ownership has changed hands from Native American to developers. This situation should be thoroughly investigated and, if substantiated, appropriate actions taken and remedies provided.

Recommendations:

- **Conduct threat assessment of American Indian properties in NJ. We recommend that the Governor request the NJ Highlands Commission and local governmental authorities of Mahway, Ringwood, and Hillburn collaborate to assess the impact of increased housing density, zoning changes, reported rapid acceleration of new building permits in the Bergen-Passaic areas of the Ramapo Mountains and make recommendations as to how best to protect indigenous people living there.**
- **Conduct threat assessment of housing density on water supply.**

Health Care

Issues:

- ✓ Reports of serious and long-standing physical disorders that are cited as directly related to the Superfund site in the Ramapough tribal area.
- ✓ Difficulties and lack of accurate information about accessing health and social services, particularly in the northern isolated areas of Bergen and Passaic counties.
- ✓ Lack of accurate reporting of individual New Jersey tribal members. Forms often do not permit individuals to accurately self-identify.
- ✓ Concerns in north and south Jersey require interstate cooperation.

Background

Health status data are not routinely gathered locally or at the State level for New Jersey's three recognized tribes, or for the broader Native American population. However, the State provides for the reporting of each of the three tribes by name.⁶¹ This is somewhat expected given the relatively small numbers of self-identified New Jersey American Indians, reported reluctance of individuals to identify themselves for fear of discrimination, and uneven health provider and public health data gathering of ethnic demographics in general. This absence of data is unfortunate and makes accurate, helpful health data assessment very difficult. The Committee was surprised to learn that there are no ongoing points of contact between the departments of Health and Senior Services or Human Services and any of the three tribes.

No health assessment data, other than that concerning the specific Ringwood Superfund site issues, were provided to the Committee by the Department of Health and Senior Services in response to our request, so it is unclear whether there are pockets of data at the State level which could be useful. The Ramapough tribal people living on and around Stag Hill and the Ringwood area have health problems, which are not adequately recognized or treated, and they report serious problems of access to primary and specialty care providers. As noted earlier, the DHSS plans to conduct an epidemiological study rather than an individual one that has not been possible due to the complexities posed by on-going litigation by some residents of the affected area.

The Committee looks to the Department of Health and Senior Services to gather and analyze existing data already in its vital statistics, such as special child health, birth defects, maternal and child health services, cancer and child, and tobacco use programs to

develop a useful picture of health status and programs needs in collaboration with the State's three tribes. The Department of Human Services also has numerous services, which can be better advertised, through the tribal offices. For example, the State's Catastrophic Illness in Children Fund is not known or visible to this population. New Jersey's tribes have a number of grandparents and other relatives caring for seriously ill and disabled children. These caregivers would benefit from a better knowledge and understanding the social service programs available.

The Committee also concludes that more effective outreach and engagement is needed. Information about programs offered by the Department of Health and Senior Services regarding health, nutrition and social services, waiver programs and senior pharmaceutical assistance program (PAAD) can be better communicated by the State and the area Offices of Aging and Community Block Grant programs to the Ramapough tribal seniors living in northern New Jersey, as well as the Nanticoke Lenni-Lenape in the south. The Nanticoke Lenni-Lenape tribe in southern New Jersey is itself focusing on youth health with a private grant. It has a summer camp program, which is incorporating wellness, exercise and nutrition to promote health and reduce obesity.

The Committee finds that renewed efforts to encourage and explain the utility of racial and ethnic reporting to the public and to health providers can help improve public health assessment. Furthermore, New Jersey's public health programs at all levels of government in areas where there are concentrations of Native Americans, particularly in Bergen, Passaic, Burlington and Cumberland counties, should invest some efforts into understanding the health needs of the State's Native American populations.

The National Health Assessment data cannot and should not be used to generalize about the health status of New Jersey's Native American populations. However the format of such reports is a helpful guide as to what should be analyzed. According to the US Department of Health and Human Services, American Indians experience cardiovascular disease, and cancer in somewhat lower rates than for all United States populations but, for example, experience higher suicide rates than those of all persons.⁶² The range of health and healthcare access problems reported nationally, often associated with poverty and isolation are consistent with the Committee's observation that a significant number of northern New Jersey Native American tribal members are living at or near poverty levels, in crowded housing conditions and in isolated rural areas in New Jersey.

Despite the lack of specific data, the Committee was able to make many direct observations during field trips, heard much testimony at the public hearings, and spoke with numerous health, social service, tribal, and other public officials.

The Superfund Site in Ringwood poses health and safety risks to the population living on and adjacent to the clean-up site.

The adverse health risks posed by the Ringwood Superfund site were brought to the Committee's attention in the fall of 2006. While not explicitly mentioned in Executive Order 24, we felt obligated to review the situation when we learned of the on-going

contamination, the sinkholes and the pending displacement of residents. The Committee walked through the clean-up staging area in Ringwood, and we observed sludge and other material. We visited the homes adjacent to where the sinkholes had occurred (and where others would occur after we left). We also viewed on foot, the clean-up site just north of the New Jersey State line, at the edge of the previous Ford plant property. Rusted cans and other debris were clearly visible above ground.

The Committee also heard powerful, compelling testimony at the public hearing held at Ramapo College from people who are cancer sufferers, whose family members are cancer sufferers or who have had birth defects, loss of hearing or other health problems. These people remain anxious and inconsolable that environmental pollutants have sickened them.⁶³ A citizens' petition from the Ramapough community resulted in reactivation of health assessment at the site.

The Committee learned that the NJ Department of Health and Senior Services, through its arrangements with the Federal ATSDR agency, investigated the past and current presence of harmful chemicals at the Superfund site and issued a preliminary report for public comment in May 2006. A final report is expected during the Fall of 2007.⁶⁴ The assessment analyzed past and current human exposure to paint sludge, and tried to determine whether exposure to volatile (gaseous state) chemicals had occurred and continued to occur. The assessment included testing blood lead levels of some 30-49 children. Of these, two had elevated levels. One was assessed with possible household paint exposure. The other child's exposure to paint-sludge contaminated soil was thought to have been a contributing factor. This child moved and was reported lost to follow-up. The assessment did not find elevated cancer incidence in the exposed population. The draft Citizen's Guide contains recommendations for future actions, including delineation of groundwater contamination and consideration of reinstatement environmental monitoring for off-site potable wells and further exposure investigations of residents based on a cooperatively developed plan.

As mentioned earlier, a written evaluation of biota testing of small mammals and wild carrots will be forthcoming from the DHSS. The DHSS made arrangements for a mobile van to provide general health screening to interested residents in the Ringwood mines area in the Fall of 2005. This was a one-time effort to ensure that basic health care services were available to the community.

The key Committee findings are that the health and safety of several hundred people living on or adjacent to the Superfund cleanup site in Ringwood are being jeopardized. An unknown number of additional persons regularly traverse the approximately 900 acres for recreation. Public health studies may not have, and may never be able to, statistically prove or disprove causation between exposure to toxic substances on site and illness. However, common public health sense indicates children, other people of all ages, and their pets that live or visit the area are at risk of touching, ingesting and breathing toxins in and on the surface of the ground, the water marshes, and local animal game. Ideally, this site should be fully characterized for all potential contaminants and remediated as soon as safely possible.

It is important to understand that the perception of health risk and safety from exposure to contaminants and from the sinkholes are genuine hazards to people's sense of health and security in their homes. The tension is even greater because, unlike other communities which might more easily choose to move to a new area, many of the Ramapough Indian residents are as attached to the geographic area which has great cultural significance for them as they are to a particular house. At this point, the Committee finds that alternative safe, living arrangements in the local area should be made for residents living on and adjacent to the site for health reasons. On-going public health monitoring for potential health risks is warranted throughout the clean-up phase, which is likely to continue for many more years. Identification of one authoritative, consistent source of public health information and advice needs to be established and maintained for the duration of the clean up by the Corzine Administration. New Jersey public and environmental health officials have had a lot of experience in appropriate risk communication. Apparently, New Jersey cannot rely on the federal government to handle the risk communication in this situation.

A significant number of older tribal members report having serious health problems but have difficulty accessing health care and social services.

Many older Americans have trouble navigating and accessing needed health care services. The Committee found that New Jersey's older Native Americans have specific access barriers to obtain preventive, chronic care and senior services (including pharmaceutical assistance), which could be reduced fairly easily.

For example, the Town of Mahwah employs an outreach public health nurse who visits the tribal office on Stag Hill monthly to take seniors' blood pressures. This locally funded program was the only local or State public health or social service program identified for the Committee as being specifically for New Jersey's older American Indians. The Town of Mahwah also has traditionally provided letters of support for a Community Block Grant that supports the operation of the tribal office.

This monthly presence of the public health nurse at the tribal office is very much appreciated by the Ramapough.. However, the seniors have the problem of accessing continuing chronic care for hypertension and the medication to treat it after the nurse identifies a high reading.

One tribal elder expressed the problem as follows:

The other day I just happened to be there (when the nurse was there) and she said, oh are you here for your blood pressure. And I said no, I'm not here for anything. I'm just passing through, and I started thinking about it. What am I going to do? I got to spend \$80, \$90 or \$100 to go to the doctor for the doctor to give me a prescription that's gonna cost me another \$100, so where does that leave me, and that's what happens to a lot of our people they don't even want to come out and find out. I don't want to know

*if I have high blood pressure? What am I going to do about it? I can't afford the medicine. The doctor gave me medicine. I never filled the prescription.*⁶⁵

This is a typical reaction of many seniors. But for the senior members of the Ramapough Nation, it is compounded by feelings of isolation, discrimination, and unsafe highways necessary to drive downtown to Paramus where the county's senior services offices are located.

The same elder continued,

*I hate to go down to Paramus, and I know the county has health care down there. I'd rather lay in bed and die...you get down to Paramus, cars driving you off the road and running you in and they don't want to let you make your turn where you want to, and you're 75-80 years old...*⁶⁶

These comments reflect what the Committee perceived as being generally felt by tribal seniors. It was also evident that tribal members are not aware of what state services are available; they are uncomfortable driving to the distant county services. They perceive the paperwork as too onerous to obtain such valuable services as the State's Pharmaceutical Assistance services, or the energy or food services. Bergen County's Area Office on Aging reported only 27 American Indian seniors accessed their senior services in 2005.⁶⁷

Both the Ramapough Lenape Indians and the Nanticoke Lenni-Lenape leadership repeatedly explained to the Committee that American Indian people generally, and seniors in particular, will access services if they have a tribal intermediary helping them fill out paperwork and ideally help them all along the process.

As the Chief of the Ramapough stated when asked why tribal members don't access even such generous programs as Medicare,

*...[a]ll of that boils down to basically, if we (the tribe) could have someone there. A lot of times it gets down to paperwork...You need to have somebody there to give a little direction and say, all right —and I do believe New Jersey got a number of fine medical programs, but you have to know how to access it. Doesn't do me any good to have a program in Wayne...if we can co-register people or something.*⁶⁸

The Chief of the Nanticoke Lenni-Lenape reiterated similar themes about their desire to have basic long-term funding for the tribal office to hire a person to help people access public programs including health, social services, and energy assistance among others. He described the problems experienced by the tribe to maintain State funding year to year for the energy assistance, and food support programs. He emphasized the fact that many tribal people in need won't go directly to the third party agencies to apply for services.⁶⁹

The Committee spoke with directors at the area Offices of Aging in Bergen and Passaic counties. Both expressed an interest in strengthening outreach and communication with the Ramapough Tribe. Both emphasized the difficulty knowing who to speak to among the tribe to most effectively develop an on-going relationship and program outreach. After the meeting with the Committee, the Bergen County Director of Nutrition immediately contacted tribal representatives to discuss food program availability.⁷⁰

Based on all this information, the Committee recommends that permanent tribal intermediary offices need to be established to help New Jersey tribal members access services for which they are eligible for the foreseeable future. Ideally there would be State funding for each tribe to maintain a small tribal office to interface with the many State agencies. The Committee suggests that the Family Assistance Case Manager program employed by New Jersey after 9-11 might be considered as a model for the State to create and fund for each of the three tribal offices. Perhaps the agencies involved can best advise how such an intermediary relationship might help them achieve their goals for this population.

New Jersey American Indians living in isolated areas near the State borders have particular access problems, which health leaders could work to eliminate

Surprisingly, a relatively few systemic health problem and health access concerns were brought to the Committee by the tribal members, despite repeated requests from the Committee. It is well recognized by health care experts that when people, particularly younger people, are living in poverty, feel isolated and perceive or actually experience discrimination, they are reluctant to seek out preventive and routine health care. They perceive having more important things to worry about such as employment, protecting their family, obtaining food and shelter.

Based on the many discussions and public hearings, the Committee concluded that there is a significant amount of unresolved tribal member anxiety about their personal health and their family's access to health care in the areas in and around Ringwood and Mahwah, New Jersey and Hillburn, New York to the north. It is less so in the southern areas of Bridgeton and Vineland.

Tribal members living in the northern Bergen and Passaic communities report that they are most likely to utilize Valley Hospital or Good Samaritan in Suffern, New York for hospital care. Mostly, individual physicians provide primary care. There is no easily accessible community health center in the area for low-income people. The problem of access reported by the Ramapough Tribe leadership was the absence of funding for a tribal advisor (intermediary-family case manager), who could help people access the variety of needed public services.

Another problem identified is that families literally live on both sides of the New York/New Jersey border. Yet they experience difficulty convincing area health care institutions and leadership to work with the tribe as one group on specific health problems. For example, tribal women whose extended families live in both New York and New Jersey

within minutes of each other, need to understand the need to access routine breast cancer services. A bi-State project could address this important issue. The Committee acknowledges that the border appears to create artificial barriers of cooperation among local health officials and institutions and urges health and social service officials to get involved with the tribal leadership to develop cross-border programs.

In summary, the health and social service needs are many, but not well analyzed or prioritized. Senior services could be improved by outreach from existing Mercer, Passaic, and Bergen county agencies. The New Jersey DHSS' Center for Health Statistics should gather and analyze the disparate pieces of data to develop baseline health data. State categorical program directors should review all programs and outreach, and hopefully improve access to services to which the tribes are entitled. The ideal solution would also include funding three tribal case managers who would interface and help tribal members access existing services.

Recommendations:

- **Increase outreach and improve accessibility of services. We recommend that the Governor direct all Departments, particularly Human Services, Health and Senior Services, Labor, Education, and Community Affairs to ensure that their programs are publicized and accessible.**
- **Ensure accurate demographic reporting and opportunities for self-identification as American Indians.**
- **Establish interstate dialogue on services and needs with New York and other states.**
- **Establish permanent communications vehicles with Government at the state and local levels.**

Infrastructure

Issues:

- ✓ Access to public services has been neglected at the local and state levels for many years.
- ✓ As indicated earlier in the report, knowledge of, and access to services would be facilitated by having the Tribal Centers serve as liaison offices for the Tribes.
- ✓ Economic development, coupled with job training, employment assistance, and other support services, is the path to an improved quality of life.
- ✓ Native American tribal leaders and individual members have long experienced problems due to a lack of access to policymakers and officials.
- ✓ Several issues do not lend themselves to unilateral efforts in New Jersey, particularly for the Ramapough Lenape, who view themselves as a single tribe located in New Jersey and New York. Addressing their issues may require inter-state efforts.

Background

“Infrastructure” is defined as the underlying foundation, basic facilities, and other mechanisms needed for the successful functioning of a community or organization. Such support structures are designed to enhance the quality of life for residents and businesses operating in an area. As such, “infrastructure” can take several forms, including physical, social, economic, and political. In most instances, the infrastructure supporting the quality of life for American Indians in New Jersey is inadequate, unavailable, or not uniformly available to all American Indian tribal members throughout the state. Therefore, the State of New Jersey is in need of an infrastructure for identifying and resolving problems unique to its Native American community. The State, working through a restructured and enhanced New Jersey Commission on American Indian Affairs, and in close cooperation with tribal leaders and local municipal and school district officials, should undertake specific steps to build a solid infrastructure to support the state’s Native American community. The following examples are illustrative of the problems faced and proposed solutions needed.

Access to public services

Years of neglect and unfulfilled promises have rendered many in the American Indian community suspicious of outsiders. Still, Native Americans are citizens of the state, and state and local officials have an obligation to provide basic services and opportunities to improve their quality of life. In some instances, the services required to address the unique circumstances facing Native Americans are simply not available. In other

instances, where the needs of Native Americans parallel those of the general population, public services are available, but not readily accessible by tribal members. Finally, state and local public policies and actions may unnecessarily exacerbate the problems on occasion due to a lack of familiarity with tribal customs and culture. Many of these kinds of problems can be avoided or better addressed through an improved infrastructure.

First, a pattern of regular meetings and interactions should be established between local officials and tribal leaders. These forums could be used to preview proposed public policies and tribal concerns. For example, a good deal of confusion and misunderstanding could be avoided if some mechanism was established to provide more opportunity for direct input into municipal decisions regarding the use and control of properties that represent sacred lands to Native American communities. Regular meetings with (and input from) tribal leaders would serve to limit the extent to which Ramapo properties are sold to individuals without tribal heritage or without a sensitivity to tribal concerns.

Next, it would be helpful to have Tribal Centers serve as liaison offices for each of the three New Jersey Native American Tribes. (See discussion of this issue on page 43.) These Centers would then be social and professional service hubs, staffed by trained tribal members, and designed to help other tribal members gain access to available services. For example, access to county senior services in Mahwah is a problem for many elderly members of the Ramapough Lenape Indians. While municipal assistance is available in that any Mahwah resident can call for pick up and transportation throughout the municipality, tribal elders are often leery and, as a result, often choose to forego benefits of the services. The state should work with tribal leaders to enhance the capacity of tribes to service their own, and to access other state and local services. For example, the state should work with the tribal leaders to establish/designate a tribal intermediary to help Native Americans in need of assistance with paperwork and other obstacles that currently limit access to state and local services. Similarly, the state should work with tribal leaders to establish a central organization to serve as a referral base for Native Americans that move to New Jersey from other places, directing them to local tribes and to both state and federal resources. Although the New Jersey Commission on American Indian Affairs is not currently equipped to handle this function, the Commission could perform this role if provided sufficient authority and resources. These Tribal Centers, working in cooperation with the New Jersey Commission on American Indian Affairs, could also provide significant input into efforts to attract more federal money for Native American tribes in the state.

In addition, the state should work with tribal leaders to establish a Native American community newsletter, web site, and other vehicles, to facilitate flow of information within and among the tribal communities. This could also serve as a mechanism for the three tribes and the Inter-tribal Council to communicate with and support each other outside of the formal setting of the Commission.

Economic Development

Economic development---coupled with job training, employment assistance, and other support services--- is the path to an improved quality of life for residents of New Jersey,

including Native Americans. The state should assist these efforts at economic development by providing the tools necessary to enhance the tribal capacity and develop their own resources, such as a community land bank or land trust to preserve land and promote economic development in Native American communities. There is little involvement or interaction between the tribal leadership and the specialized community development groups in the state that focus on underserved populations. In addition to these types of general assistance, the state should encourage tribal members to pursue key positions in state and local government, both elected and appointed, such as becoming state troopers, municipal and county clerks, tax assessors and collectors, and public works managers.

Political infrastructure

Both Native American tribal leaders and individual members have long experienced problems due to a lack of access to policymakers and a direct voice in policymaking, especially related to issues of direct importance to their community. Several steps can be taken to address these concerns. First, mechanisms should be established that provide for routine contact with between tribal leaders and local officials (including mayor, local governing body, police, and school board officials). Similar mechanisms should be encouraged for regular contact with the legislative and Congressional delegations representing communities with significant concentrations of Native Americans. This effort would be greatly assisted if the state were to take the leadership in conducting a comprehensive statewide census and needs assessment for the Native American communities. Moreover, every state agency should designate a community affairs representative whose responsibility would be to maintain open communications and facilitate interactions with the Native American communities.

Several of the major issues confronting the Native American community in New Jersey do not necessarily lend themselves to unilateral efforts by the state or to short-term solutions. For example, the Ramapough Lenape Indians view themselves as a single tribe, located in two states---New Jersey and New York. As such, addressing many of their concerns regarding education, health care, and economic development may require solutions that are not limited by extant borders. An interstate compact with neighboring New York appears to be in order. Such interstate compacts are not new and have proven to be effective approaches in dealing with other issues, such as transportation---with the Port Authority of New York and New Jersey, although nothing on such a grand scale is envisioned here.

Given the on-going nature of many of the concerns facing Native Americans in the state, and the fact that new concerns are likely to emerge in the future, a mechanism is needed to deal with long-term and unanticipated problems. The Committee feels that a restructured New Jersey Commission on American Indian Affairs would prove more than adequate to address these needs. The Commission should be expanded in both scope and authority by including cabinet members from several other agencies (in addition to the Secretary of State), and by providing adequate staff and resources/funding. The Commission would thereby be in a position to deal with on-going and unanticipated

issues, as well as to follow through on the many specific recommendations made in this report.

Summary and conclusions

If these types of reforms are pursued, the state will not only address many of the immediate concerns facing the Native American community in New Jersey, but the state will also have taken steps to reduce the likelihood of future difficulties. The state will also have enhanced the capacity of the Native American community to address many of its own concerns, while continuing to add to the cultural richness and diversity of the state, thereby contributing even more significantly to the general well being of the state as a whole.

Recommendations:

Note: The Committee's interpretation of Infrastructure includes social, political and economic infrastructure. As such, the recommendations for this section are addressed in the relevant sections of this report.

III. FINDINGS AND RECOMMENDATIONS

Affirmation of state recognition of the three tribal groups

FINDINGS

The Committee has determined that the 1980 and 1982 concurrent legislative resolutions did recognize the three New Jersey American Indian tribes: the Ramapough Lenape Indians, the Nanticoke Lenni-Lenape and the Powhatan Renape. These legislative resolutions recognized the existence of the tribes in New Jersey and affirmed the tribal peoples' continued existence, their heritage and rich cultural contribution to New Jersey. These resolutions in no way were claimed to create rights or potential rights to conduct gaming.

To its disappointment, the Committee's research concluded that New Jersey lags behind, rather than leads, the many other states that have enacted State-only recognition for their tribes. The Committee's research concluded that State-only recognition can be crafted to be largely independent of any association with the process of Federal recognition. State-only recognition can create enumerated benefits and limitations, and criteria for any additional tribal people who may request state recognition. State recognition can include language that disavows gaming privileges.

Moreover, communications to federal agencies during subsequent administrations have created ambiguity and federal agency uncertainty about the current State policy towards the three tribes. The 1980 and 1982 resolutions do not adequately reflect 21st century State recognition of the cultural contributions and religious practices of New Jersey's tribal peoples, nor do they acknowledge the unique economic and education hardships and persisting environmental injustice experienced by them. Affirmation of the State's pride in the tribes and its pledge to work in partnership on these issues will be invaluable.

Inattention to adequate state recognition has cost the State and the New Jersey tribes access to millions of dollars of federal support for educational, health, employment and social services. The Committee heard only support for recognition from the general public.

The Committee believes the general public will welcome the celebration of the rich diversity of New Jersey's Native American Indian population. The Committee finds that the significance of State-only recognition carries a high level of cultural import to the tribal members, particularly the young citizens whose heritage is continually and consistently questioned by the majority population.

RECOMMENDATIONS

1. State Recognition: We recommend that a three-stage legislative strategy be implemented to affirm and strengthen State-only recognition for New Jersey's three

tribes: the Nanticoke Lenni-Lenape, the Powhatan Renape, and the Ramapough Lenape Indian Nation. The three stages are:

(a) Issuance of an Executive Order affirming the Administration’s respect for and recognition of the three tribes and enumerating their members’ many contributions to the state’s culture, history and environmental stewardship.

This order can direct all State agencies to review and modify their programs to ensure they are accessible to and utilized by tribal members and all American Indians who are citizens residing in New Jersey. The order can make clear that any disrespect or discrimination by State action or inaction towards New Jersey’s tribal members will not be tolerated.

(b) Enactment of new legislative resolutions signed by the Governor to affirm State recognition for the three tribes.

Such legislative resolutions can make clear the intent to ensure New Jersey’s state tribes are intended to be eligible for all Federal benefits and national recognition that other states’ State-only recognized tribes have. It is recommended that such resolutions can include appropriate language to make clear the resolutions do not intend and disclaim any intent to recognize or confer any right to conduct gaming activities nor are intended in any way to be used as support for any applications for federal recognition.

(c) Enactment of state legislation to strengthen the New Jersey Commission on American Indian Affairs and acknowledgment of the existence of three New Jersey American Indian tribal groups.

Such legislation can be in one or two parts. Part one would include provisions which would strengthen the existing New Jersey Commission on American Indian Affairs as recommended in several of this report’s recommendations; include an affirmation and state recognition of the existence of the three New Jersey tribal groups, the Nanticoke Lenni-Lenape, the Powhatan Renape and the Ramapough Lenni-Lenape; establish criteria and a process to assess any future requests from other tribal groups for authentication of their existence, enumerate any state benefits available and the hopes this will make these groups eligible any federal benefits available to State-only recognized tribes, create disclaimers disavowing intent to create any potential privilege or rights to conduct gaming, or to use the existence of this legislation to secure federal recognition.

It is also recommended that Part two or a second separate law be enacted to create protections patterned on those in federal law for tribal burial grounds, human remains and American Indian artifacts which are currently absent in New Jersey law.

Tax on property used for religious worship

FINDINGS

The Committee heard testimony and secured *pro bono* legal research concerning the lack of an exemption of state taxation of tribal burial grounds and property held privately for open-air worship.

RECOMMENDATIONS

2. Tax Exemption for Tribal Religious Real Property: We recommend that the New Jersey departments of Law and Public Safety and Treasury review the situation and make appropriate recommendations of how reasonable exemption of bona fide open air worship properties and tribal burial grounds can be achieved.

Environmental justice associated with Ringwood Superfund site

FINDINGS

The Committee determined that a serious unresolved environmental justice situation is adversely affecting Ramapough Lenape Indians, specifically, the lingering, worsening Superfund toxic waste site in and around Ringwood, New Jersey. Additionally, in 2006 and 2007, the appearance of sinkholes displaced tribal members and other residents from their homes. A New Jersey Department of Environmental Protection alert has now reported harmful toxins in small game hunted for subsistence by the Ramapough Tribe. Exacerbating this situation is a persistent lack of clear lines of authority or a single authority to manage the cleanup and inform the public.

The Superfund site cleanup work is resulting in direct serious environmental, health and safety issues for all affected residents. It is the only Superfund site in the nation which was certified by the federal government as being remediated and subsequently re-listed. It has displaced people from their homes; some perhaps permanently. It is particularly hard for those who live in the immediate proximity and engage in subsistence hunting. Management of the site cleanup currently involves a confusing array of local, state and federal agencies and the recent establishment of an Interagency Team that is beginning to coordinate these efforts. The local and state agencies have provided temporary housing and sinkhole repair assistance. Litigation has been filed by a group of residents, which is now in Federal Court.

RECOMMENDATIONS

3. Seek Recovery of Damages from Federal Government: We recommend that the Governor direct the Attorney General to determine what legal action can be taken to manage and recover State damages for the ongoing multiyear cleanup effort. Such action might include petitioning the Federal Government and Courts to appoint a Special Master to oversee the cleanup and protect the residents. It could include determination of

whether a Federal Natural Resources Damages claim for injuries to state lands and wildlife using private counsel to file such litigation is warranted.

4. Seek Appointment of a Single Point Person to Oversee Cleanup. If efforts to secure a Special Master are not successful, we recommend that the Governor appoint a single point person to coordinate with the responsible parties in the Federal Government the multi-agency clean-up efforts and human service issues.

5. Conduct Health and Safety Assessment: We recommend that the Governor direct the departments of Environmental Protection, Community Affairs, Health and Senior Services and the New Jersey Highlands Commission to work collaboratively to identify the health, and safety needs of the residents being adversely affected by the Superfund Site, including monitoring the nearby reservoir and watershed.

6. Seek Compensation for Damages to Families: We recommend that efforts be made to determine what sources of federal, state and local compensation for property damage and cost of relocation can be secured for families displaced by the Superfund Site cleanup. Continue to work with the community to identify and address on-going or emerging needs.

Inter-Governmental Issues/Recommendations

FINDINGS

The Committee hosted a meeting of representatives of key agencies of State Government, which indicated that there is significant interest in learning more about New Jersey's American Indian communities, but a general lack of understanding about who they are and where they are located. There is no uniformity in the way in which the departments collect statistical data to identify New Jersey's American Indians and to ascertain their needs. There was a general consensus that cultural competency training would be helpful for agencies. The departments indicated that they have many funding and job opportunities that American Indians may apply for, but to date they have not done outreach to make known these opportunities.

RECOMMENDATIONS

7. Inclusion of key commissioners and Attorney General on NJ Commission. There should be on-going dialogue between the NJ Commission on American Indian Affairs and the various departments of State government, best achieved by inclusion of the key commissioners and Attorney General as *ex officio* members of a reconstituted New Jersey Commission.

8. Information to educate the public and make accessible necessary programs. The departments should work with the NJ Commission to provide demographic, socio-economic, health and service information that can be used to educate the public and develop, or make accessible, necessary programs.

9. Educate the various departments about New Jersey tribes' cultural heritage, contributions and needs.

10. State agencies should work with the three tribal intermediary centers to bring information and services to the communities. The Committee recommends modest annual state funding for each of the three tribal centers.

11. American Indian groups should be advised of job openings and department recruitment efforts, through the New Jersey Commission on American Indian Affairs.

12. Agencies should consider including American Indian issues and needs in requests for proposals.

The New Jersey Commission on American Indian Affairs

FINDINGS

The Committee finds the existing New Jersey Commission on Native American Indian Affairs is a valuable commission that should be strengthened and enhanced. Currently, it lacks any permanent staff or even modest funding to enable it to carry out its important functions.

13. Strengthen the Commission: We recommend that the Commission be made permanent as a line item agency and receive adequate funding and staffing. Increasing the capacity of the standing Commission will help to ensure tribal members and all the State's American Indian residents can obtain state and federal program benefits to which they are entitled.

Civil Rights

FINDINGS

The Committee received extensive personal testimony from many tribal members concerning past and current institutionalized practices of discrimination in education, local law enforcement, and employment. It is clear that few such cases are officially reported because of a sense of hopelessness that situation will be addressed or that the behavior will change.

RECOMMENDATIONS

14. Conduct assessment of cultural competency of state agencies: We recommend that the Attorney General be directed to lead a review by state agencies of their community relations practices and cultural competency training and consult with the New Jersey Office of the Public Advocate, its own Division of Civil Rights and the New Jersey

Human Rights Commission to make such changes as are found necessary to eliminate the potential for discrimination.

15. Develop culturally appropriate training materials: We recommend that State law enforcement, working with local law enforcement and the Commission, continue to develop culturally appropriate training materials for law enforcement agencies, and we further recommend that such materials be shared with other State agencies.

16. Establish annual American Indian celebration: We recommend that the State encourage annual celebration of the contributions of New Jersey's American Indians to the history, cultural and environmental strength of New Jersey. This could take place during November, Native American History Month.

17. Maintain on-going communication between the American Indian community and local government and law enforcement. Ensure follow-up to New Jersey State Police interest in increased interaction with and recruitment of American Indians.

Education

FINDINGS:

The Committee heard significant testimony from individuals concerning ongoing discrimination, inaccurate educational curriculum materials and, in general, an ignorance of the continuing presence, cultural and religious practices, and contributions of the three Native American Indian tribes in New Jersey. It also learned that several other states offer state scholarships or loans for Native American students studying in the state.

RECOMMENDATIONS

18. Immediately secure and implement culturally accurate and sensitive curriculum (K-8): We recommend that the Department of Education work with appropriate curriculum specialists to identify sound, accurate educational materials and put them into use immediately. In addition, the Department of Education should urge correction of inaccurate derogatory information in the curricula and make recommendations concerning the optimal grade levels for teaching the new curricula.

19. Establish New Jersey Native American Scholarship Program: We recommend that a scholarship, loan or tuition reduction program for New Jersey residents who are members of Native American tribes be created through public or private donations such as exist in other states for vocational and post-secondary education.

20. With the New Jersey Department of Education address discrimination issues in local school districts: We recommend that the NJ Department of Education immediately address the use of American Indian logos and mascots for athletic events, bullying and harassment of students of American Indian background, and provide workshops for teachers on American Indian history, cultural and current role in the State of New Jersey.

Employment

FINDINGS

From testimony given by members of all three tribes, it is evident that career counseling and job training, as well as job opportunities, are needed in the Indian communities. Additionally, a comprehensive approach is desired in order for tribal members to be able to work in their own communities and help their own people.

RECOMMENDATIONS

21. Provide comprehensive career counseling, job training and placement services with a goal of long-term economic development of the tribal communities: We recommend further development of current and new services provided by the federal Workforce Investment Act for Native Americans program administered by the Rhode Island Indian Council as well as increased coordination with the workforce development services provided through the New Jersey Department of Labor and Workforce Development.

Fair Housing

FINDINGS

Many New Jerseyans risk displacement from their homes due to increasing property taxes and new high cost, high-density housing development. This Committee finds there are unique economic pressures forcing the indigenous tribal residents to lose their modest properties. These are most acute in the environmentally sensitive northeast New Jersey highlands Ramapo Mountain area, and in southern New Jersey's Burlington and Cumberland County's tidewater region. Tribal families have lived for three centuries on small parcels of previously undesirable rocky, hilly and/or isolated rural property. These residents are experiencing unprecedented accelerated increased property taxes and aggressive real estate practices which are forcing them to surrender their small parcels of privately held land. Moreover, Ramapough residents near and in the Superfund site are facing devaluation of their homes and possible permanent displacement. Tribal cemeteries and open-air places of worship are also threatened

RECOMMENDATIONS

22. Conduct impact assessment of Native American properties in New Jersey: We recommend that the Governor request the New Jersey Highlands Commission and local governmental authorities of Mahwah and Ringwood, New Jersey and Hillburn, New York, collaborate to assess the impact of increased housing density, and zoning changes on indigenous people' housing, investigate the reported rapid acceleration of newly issued building permits in the protected Bergen-Passaic areas of the Ramapo Mountains and make recommendations as to how best to protect indigenous people living there.

23 Conduct impact assessment of housing density on water supply: We recommend that the Governor request the appropriate agencies and Commissions to determine whether this increased housing density is also adversely affecting the reservoir and watershed areas on which New Jersey's Ramapough Tribe and several million other New Jerseyans depend for water.

Health Care And Infrastructure

FINDINGS

The Committee heard a variety of testimony concerning difficulties and lack of accurate information about accessing health and social services particularly in the northern isolated areas of Bergen and Passaic counties. County-based services are perceived as being located too far away for elders to drive to. The tribal leaders desire to become funded intermediaries of agencies and to secure adequate funding for the three tribal centers to link members to services.

Meetings with state agencies, testimony and review of state data analyses indicate there are significant underreporting and incorrect reporting and naming of individual New Jersey tribal members in New Jersey. While the problems of self-reporting do exist, the forms provided often do not permit individuals to accurately self-identify. Accurate census reporting is needed to secure available federal funding. The lack of adequate data exacerbates the problem of inadequate access to needed services.

The Committee heard testimony that both the Ramapough in the northern tier and the Nanticoke Lenni-Lenape residents in the southern tidewater area of the state have concerns that require interstate cooperation. For example, residents live on both the New Jersey and New York side of the Ramapo Mountains and seek jobs and health and social services in both states. Collaboration between states might serve as a more effective vehicle for service delivery to tribal peoples.

Additionally, at the local level, the Committee encountered a peculiar disengagement by political leaders in the areas where the tribal members are most numerous. Even accounting for ongoing unresolved litigation and law enforcement issues, there is an estrangement between local leaders and their tax-paying tribal constituents. This is in sharp contrast to the information received from numerous other states which have recognized, celebrated and treasured their American Indian citizens.

RECOMMENDATIONS

24. Increase outreach and improve accessibility of services: We recommend that the Governor direct all Departments, particularly Human Services, Health and Senior Services, Labor, Education and Community Affairs, to ensure that programs, including those administered at the County levels, become publicized and accessible. Wherever possible the agencies should be encouraged to utilize the tribal infrastructure as state funded intermediaries to help access the services.

25. Ensure accurate demographic reporting and opportunities to self-identify as Native Americans: We recommend that the Governor direct the appropriate state agencies to ensure that accurate categories are being developed for the upcoming national census, and that there be improved accuracy and consistency in state forms including labor, vital statistics and education.

26. Establish interstate dialogue on services and needs of Native Americans: We recommend that the Governor direct his staff to identify and discuss with appropriate New York or Pennsylvania counterparts how to better educate and coordinate information concerning available services. This may include the joint funding of a tribal intermediary group to help members access services.

27. Establish permanent communications vehicles with government: We recommend that the Governor use his offices to reach out to the county and local officials particularly in the counties of Bergen, Passaic, Cumberland, Burlington, and Atlantic, and localities of Ringwood and Mahwah to encourage them to develop processes for routine conversation with tribal leaders.

28. Follow-up on the report. This report is the first step in addressing a wide range of deep and long-standing issues of concern to New Jersey's American Indian communities. We, therefore, strongly recommend that in following up on these issues, the New Jersey Commission on American Indian Affairs be tasked with an annual report to the Governor on the status of all issues and recommendations that are presented in this report.

¹ New Jersey Executive Order No. 24 establishing the New Jersey Committee on Native American Community Affairs, 2006.

² See the Committee's findings concerning other States' recognition of "state only tribes."

³ See, e.g., misinformation about the history of Nanticoke Lenni-Lenape published in New Jersey Studies Weekly and distributed to New Jersey schoolchildren September 4, 2006, appendix at 398; Written testimony of Marcella Perrano to the New Jersey Committee on Native American Community Affairs 9 January 2007, appendix at 300 ;Oral testimony of Dwaine Perry, Chief of the Ramapough Tribe to the New Jersey Committee on Native American Community Affairs. 09 January 2007, pages 36-46 of the hearing transcript, appendix at 439; Oral testimony of George Torres to the New Jersey Committee on Native American Community Affairs. 11 January 2007, page 80 of the hearing transcript; appendix at 610; Oral testimony of Tina Fragoso to the New Jersey Committee on Native American Community Affairs. 11 January 2007, pages 35-45 of the hearing transcript., appendix at 565; Oral testimony of Urie Ridgeway to the New Jersey Committee on Native American Community Affairs. 11 January 2007, pages 60-63 of the hearing transcript, appendix at 590.

⁴ New Jersey's Department of Environmental Protection has authority to declare an area an historical site but not authority over burial grounds or artifacts and human remains newly found or in the hands of institutions.

⁵ Oral and written testimony of Rev. John Norwood, Legislative Director, Nanticoke Lenni Lenape Tribe to the New Jersey Committee on Native American Community Affairs. 11 January 2007, page 19 of the hearing transcript , appendix at 549; Personal correspondence from Bonita Evans PhD. to the New Jersey Committee on Native American Community Affairs. January 10, 2007, appendix at 395 ("I have spent nearly 25-30 years working around the world for the United Nations and for various foreign government departments...Nowhere have I found a place which is less conversant with the existence of its indigenous

people than the State of New Jersey. There is little information available to schools at primary level and it becomes more scarce at the upper levels”); Written Testimony of Amy Hill Heath to the New Jersey Committee on Native American Community Affairs 11 January 2007, appendix at 402.

⁶ Oral testimony of Justice Norwood, Trinity Norwood, Hassan Ridgeway, Mr. George Torres, Ms. Gould, and Tanya “Smiling Spirit Dove Norwood to the New Jersey Committee on Native American Community Affairs, 11 January 2007, pages 12, 16, 54, 61 and 80 of the hearing transcript, appendix at 542, 546, 584, 591, 610.

⁷ Memorandum from Emily Goldberg, Esq., of Gibbons P.C. to the New Jersey Committee on Native American Community Affairs, dated February 15, 2007 (revised September 2007), appendix at 1; see also Memorandum from Emily Goldberg, Esq., of Gibbons P.C. to the New Jersey Committee on Native American Community Affairs, dated September 28, 2007, appendix at 103.

⁸ Oral testimony of Janet Burton, Executive Director of the Ramapo River Watershed and Inter-Municipal Council to the New Jersey Committee on Native American Community Affairs. 09 January 2007, pages 46-54 of the hearing transcript, appendix at 449 (“Our Watershed organization recognizes there is an artificial boundary line that runs across the middle of the watershed and much the same way there’s an artificial boundary that runs across the land of the Ramapo Lenape nation and separates as people into various jurisdictions among the Mahwah, Hillburn, Ringwood...” “...it’s clear that the Ramapo Lenape people have not been cherished and treasured and valued as they could be and that we celebrate diversity and our communities and that we need to do more across state boundaries to celebrate the Ramapo Lenape Indian Nation and its heritage ...”); Oral testimony of Danawa Buchanan to the New Jersey Committee on Native American Community Affairs. 11 January 2007, pages 46-48 of the hearing transcript, appendix at 576 (“I teach Native American History...I’m also the founder of the American Indian Cultural Center Washington D.C.” “When I stand up and look into the eyes of the people (Native American people), there is one thing that fills my heart and mind. And that is the word gratitude, gratitude, gratitude.”).

⁹Memorandum from Emily Goldberg, Esq. of Gibbons PC to The New Jersey Committee on Native American Community Affairs February 15 2007 (revised September 2007), appendix at 1.

¹⁰ Memorandum from Emily Goldberg, Esq. of Gibbons, P.C. to the New Jersey Committee on Native American Community Affairs, dated September 28, 2007, appendix at 103.

¹¹There has been extensive judicial discussion of the federal not state jurisdiction over persons claiming lands as American Indian lands. See e.g., Unalachtigo Band of the Nanticoke-Lenni-Lenape Nation and James Brent Thomas Sr. v. State of New Jersey, 375 N.J. Super.330 (2005) cert denied 184 NJ 210 (2005)(“We derive from these statutes a clear understanding that Congress expressly intended to preserve exclusive federal jurisdiction over claims of Indian land, which is subject to restriction against alienation.”); Federal Indian Gaming Regulatory Act, 23 U.S.C. §2701-2721 (IGRA).

¹² Assembly Concurrent Resolution 3031 (January 8, 1980) (Ramapough); Senate Concurrent Resolution 104 (October 20, 1980) (Powhatan); Senate Concurrent Resolution 73 (December 17, 1982) (Nanticoke), appendix at 125, 131, 133.

¹³ Oral testimony of Rev. John Norwood, Legislative Director of the Nanticoke Lenni-Lenape Tribe to the New Jersey Committee on Native American Community Affairs. 11 January 2007, page 21 of the hearing transcript, appendix at 551(“Our tribal business, which operates under special privileges reserved for American Indians and tribal governments, are being threatened because New Jersey suddenly got amnesia regarding its word to our people. The bones of our ancestors are displayed, discarded, and even sold like they mean nothing, and we have to beg for the right to protect their resting places or rebury them with honor.”)

¹⁴Affidavit of Cary Edwards, Esq., former New Jersey Attorney General, Governor’s Counsel and Bergen County Assemblyman, appendix at 122.

¹⁵ N.J.S.A. 52:16A-53 et seq; See also Commission By Laws, appendix at 293.

¹⁶ Letter from Douglas K Wolfson, New Jersey Division Law and Public Safety to Meredith Stanton, Director, Indian Arts and Crafts Board, U.S. Department of the Interior, January 27, 2003, appendix at 137; Letter from John Peter Suarez, Director Division of Gaming Enforcement, New Jersey Department of Law and Public Safety to Meredith Stanton, Acting Director Indian Art and Crafts Board, US Department of the Interior, December 14,2001, appendix at 135; Letter from Lewis Pierce, Jr., New Jersey Commission on American Indian Affairs to Jana McKeag and IACB Commissioners, February 9, 2006, appendix at 139; Letter from Reverend John Norwood to Jana McKeag and IACB Commissioners, August 2, 2006, appendix

at 141; Letter from Meredith Stanton, IACB to Reverend John Norwood, August 9, 2006, appendix at 143; Letter from Meredith Stanton, IACB to Emily Goldberg, March 21, 2007, appendix at 144.

¹⁷ Personal conversations between Committee members and members of the public during deliberations.

¹⁸ Native American Graves Protection and Repatriation Act (NAGPRA 1990) provides for authentication and appropriate disposition of Native American skeletal remains, associated funerary objects, sacred objects, and objects of cultural patrimony held by museums and other institutions which receive federal funding. It provides for the return of these items to the culturally affiliated Native American tribes and establishes federal regulations for such handling and return. State laws have been enacted to protect sites which are not federally protected.

¹⁹ 25 C.F.R. §83.7

²⁰ See e.g., <http://www.doi.gov/bureau-indian-affairs.html>, Bureau of Indian Affairs website list of federal programs.

²¹ Federal Indian Arts and Crafts Act of 1990.

²² IGRA defines “Indian lands” as: (1) “any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power,” and (2) “all lands within the limits of any [federal] Indian reservation.” 25 U.S.C. §27-3(4)(A) & B). See, e.g., *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 215-21 (1987) (holding that the gaming activities of a federally recognized tribe on federally recognized Indian lands could be regulated only by the Federal government, and not the states, and concluding that state law was preempted).

²³ The Tenth Amendment to the United States Constitution provides that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” U.S. CONST. AMEND. X. See, also, *United States v. Darby*, 312 U.S. 100, 124 (1941) (“all is retained [by the states] which has not been surrendered”); *Artichoke Joe’s Cal. Grand Casino v. Norton*, 353 F.3d 712, 737 (2003) (recognizing that the regulation of gambling activities are a “vice activity,” the regulation of which is in the legitimate interests of the state).

²⁴ *Ibid.*

²⁵ Memorandum of Emily Goldberg, Esq. of Gibbons, P.C. to the New Jersey Committee on Native American Community Affairs, February 15, 2007 (revised September 2007), appendix at 1.

²⁶ Massachusetts, Michigan, North Carolina.

²⁷ New Jersey’s Department of Environment Protection administers the New Jersey Register of Historical Sites. In 2001, the DEP designated and registered (and thus preserved) a large site at Black Creek in Vernon Township which was found to have numerous American Indian artifacts. However this does not per se relate to tribal burial grounds or plots.

²⁸ Summary of Antiquities Belonging to the Sand Hill Band of Lenape, appendix at 299.

²⁹ National American Indian Graves Protection and Repatriation Act

³⁰ See N.J.S.A.54:4-3.6

³¹ See N.J.S.A. 40:60-25.34.

³² See N.J.S.A. 4:60-25.41.

³³ See e.g. Cal. Pub.Res. Sec 5097.92;sec.5097.96 and MGLA 6A sec 8A;MGLA 38 sec 6.

³⁴ Oral testimony of Joanne Silverfox Schafer to the New Jersey Committee on Native American Community Affairs. 9 January 2007, page 7 of the hearing transcript, appendix at 410.

³⁵ Oral testimony of Bruce Perry to the New Jersey Committee on Native American Community Affairs. 9 January 2007, page 8 of the hearing transcript, appendix at 411.

³⁶ Jan Barry, *Ford, the feds, the mob; Making a wasteland*, The Bergen Record, Sunday, October 2, 2005.

³⁷ Jan Barry, *The Watchdogs Failed; Four Cleanups, yet waste still is everywhere*, The Bergen Record, Monday, October 3, 2005.

³⁸ Jan Barry, *Fish and Game at Issue*, The Bergen Record. November 14, 2006.

³⁹ Conversation on Thursday, December 21, 2006 between Ken Hetrick, Ringwood Borough Manager and Christine Grant, co-chair New Jersey Committee on Native American Community Affairs.

⁴⁰ *Wayne Mann, et al v. Ford Motor Company*, Complaint filed January 18, 2006, appendix at 164.

⁴¹ Jan Barry, *More lead found in tests at Ford site*, The Bergen Record, December 29, 2006.

⁴² Environmental Justice Executive Order, January 19, 2004, appendix at 159.

⁴³ *Ibid*

⁴⁴ *Ibid*

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- ⁴⁵ Letter from Wayne Mann to the NJ DEP Commissioner, dated November 15, 2004, appendix at 147.
- ⁴⁶ New Jersey Environmental Justice Task Force, *Statement of Findings, Ringwood, Passaic County, Ringwood Mines/Landfill Former Superfund Site Petition, March 24, 2005*, appendix at 156.
- ⁴⁷ Jan Barry, *The Watchdogs Failed; Four Cleanups, yet waste still is everywhere*, The Bergen Record, Monday, October 3, 2005.
- ⁴⁸ Letter from Senators Menendez and Lautenberg and Congressman Pallone to EPA Acting Inspector General Bill Roderick, March 6, 2006, appendix at 211.
- ⁴⁹ *Environmental Justice Concerns and Communication Problems Complicated Cleaning Up Ringwood Mines/Landfill Site*. Report 2007-P-00016. U.S. Environmental Protection Agency Office of the Inspector General, April 2, 2007, http://www.epa.gov/oig/reports/2007/20070402-2007-P-00016_glance.pdf, appendix at 217.
- ⁵⁰ Ibid.
- ⁵¹ *New Jersey Members: EPA Inspector General Report On Ringwood Site A "Serious Disappointment"*, Press Release, April 4, 2007, Senator Robert Menendez's Office, appendix at 211.
- ⁵² See End Notes 16, 17, 18.
- ⁵³ Ana M. Alaya, *Ramapough case's 911 tapes released – Many calls reveal day's frantic scene after park officer shot tribe member*, The Star Ledger, May 20, 2006.
- ⁵⁴ Ibid.
- ⁵⁵ In Re Federal Acknowledgment of the Ramapough Mountain Indians, Inc., 31 IBIA 61A at page 74 n.16, appendix at 250.
- ⁵⁶ Letter from Committee co-chairs requesting meeting with Mahwah Mayor Martel and Police Chief, dated January 17, 2007, appendix at 276.
- ⁵⁷ Letter from Committee co-chairs requesting meeting with Ringwood Mayor Atlas and Police Chief, dated January 17, 2007, appendix at 284.
- ⁵⁸ Email from Councilwoman and former Mayor Wenke Taule to co-chair Christine Grant, dated February 21, 2007, appendix at 289.
- ⁵⁹ American Indian Religious Freedom Act, 42 U.S.C. §1996.
- ⁶⁰ Written testimony of Amy Hill Hearth to the New Jersey Committee on Native American Community Affairs, 11 January 2007, appendix at 402.
- ⁶¹ Nanticoke Lenni-Lenape Report on State Recognition, appendix at 389.
- ⁶² Health, United States 2006, HHS Tables 36,39,46 (<http://www.cdc.gov/nchs/data/hus/hus06.pdf#039>).
- ⁶³ Oral testimony of Joanne Silverfox Schafer to the New Jersey Committee on Native American Community Affairs. 9 January 2007, pages 6-8 of the hearing transcript, appendix at 409; Oral testimony of Bruce Perry to the New Jersey Committee on Native American Community Affairs. 9 January 2007, pages 8-9 of the hearing transcript, appendix at 411; Oral testimony of Cynthia Fountain to the New Jersey Committee on Native American Community Affairs. 11 January 2007, pages 10-12 of the hearing transcript, appendix at 540.
- ⁶⁴ See The Citizen's Guide at <http://www.state.nj.us/health/eoh/cehsweb/documents/ringwoodcitguide.pdf>.
- ⁶⁵ Oral Testimony of Walter Van Dunk to the New Jersey Committee on Native American Community Affairs. 9 January 2007, pages 33-36 of the hearing transcript, appendix at 436.
- ⁶⁶ Ibid.
- ⁶⁷ 2005 report from Bergen County to DHSS courtesy of Tina Zenak DHSS, appendix at 292.
- ⁶⁸ Oral testimony of Dwaine Perry, Chief of the Ramapough tribe to the New Jersey Committee on Native American Community Affairs. 9 January 2007, pages 36 of the hearing transcript, appendix at 439.
- ⁶⁹ Oral testimony of Wayne Gould, Chief of the Nanticoke Lenni-Lenape tribe to the New Jersey Committee on Native American Community Affairs. 11 January 2007, pages 95-101 of the hearing transcript, appendix at 625.
- ⁷⁰ After being contacted by the New Jersey Committee on Native American Community Affairs, the Director of Nutrition at the Bergen County Area Agency on Aging immediately reached out to and met with tribal members concerning food and nutrition programs in the Mahwah area. Hopefully, Passaic County will also be able to create an outreach effort in the Ringwood area.