

Presentation Task Force morning 1-14-2020 pt_4

Sen. Carpenter:

Representative Reckitt. Sorry.

Rep. Reckitt:

I'm trying to remember back to why I was going to talk. But basically for me, I want us to remember as a group, not only the impetus for all of this work, but all of the work that was done over the Summer. I personally want to spend this weekend probably reading this document, trying to get a grasp of it, spend some significant time. We have a holiday in this weekend. And I think for me it's important not only to do that as my own work, but to also trust this group that's been working so hard to put this together logically. And I am less inclined to break things up or try to separate what would or wouldn't be easy to pass or not easy to pass. But I don't want to throw the baby out with the bath water too.

So, if there comes a time when we need to do that kind of extraction or breakup, I'd be perfectly amenable to think about it. But I want us to start from a position of trying to grasp an understanding of the work that's been done and the amount of time and effort it's taken people from this legislature and from the Tribes and for the revisers to put this document together. I think we owe it due consideration as a starting point and I'm hoping that the initiative will remain relatively intact at the end of the day, which is not to say that I understand this minute whether I really believe in each of these pieces. I don't, I have not yet read this piece, but I commit to you. I'm going to try to do that and develop a sufficient understanding to look at this with an appreciative eye, with a critical eye but not a negatively critical eye. Thank you.

Sen. Carpenter:

And I'll just add to that, again, I've already thanked the staff but I mean nobody here in this room, on the Task Force or otherwise has to go through this report to see if anybody's agenda item got added. And that says something about the process that we have here and thanks to the staff. If anybody tried to do that, the staff would, I'm sure reject it. Representative Harnett.

Rep. Harnett:

Thank you Mr. Chairman. This is a technical question if it's too early just tell me it's too early. We keep talking about all we can do is amend Maine law. I'm concerned about something like consensus recommendation 17 which deals with gaming. Do we need assistance from our federal partners to amend the applicability of the Indian Gaming Regulatory Act so that it would apply to Maine because right now it does not because of the way our state laws structure because it was enacted after that fact. Can we accomplish all of these things just with changes under state law? Am I making myself clear?

Rep. Bailey:

Yes, we believe we can and especially there's that one recommendation about 6H-16B. Yeah thank you. I don't remember the numbers, and just defining that and the way that section is written, we believe that that would pull in federal laws such as the Maine law.

Rep. Harnett:

So that we can say we are not Maine, we are not preempted. We don't need the federal law to change.

Rep. Bailey:

Correct.

Rep. Harnett:

Thank you.

Sen. Carpenter:

That was news to me during the Task Force deliberation, but I think, I think we can. Senator Keim.

Sen. Keim:

Thank you Mr. Chair. And just a question for you Chief Francis, when you talk about the original settlement, I was just wondering, are any of the Tribes' original representatives still around that negotiated the settlement?

Chief Francis:

Yes. So some of the Tribal leaders that were around that at that time I can think of, some are not anymore, but I can think of one person on the negotiating team that's still very prominent in the community and provide some input on this stuff from time to time. But, but yes, there are some.

Sen. Keim:

And do you think were they part of sharing their perspective? Because I think some of what you mentioned here is definitely a perspective on how the original settlement came to be. And I was

just curious about their perspective on that. Is that something that they shared with the Task Force or do you think they would come here and be speaking on this bill as it moves forward?

Chief Francis:

So I think that during the public hearing process, I think that perspective would be important, and we're certainly going to invite all that expertise to participate in that process. And a lot of what you're hearing in terms of these comments actually did come from a lot of those folks in terms of, we had an extensive Tribal-State work group in 2008 for example, that there were many more of them around that were participating actually on the committee.

So this is really not something we had. It's been a lifetime of learning for me living under this Act. So a lot of these positions and mindsets that I have in dealing with the Settlement Act is really derived from those folks anyway, not just those people that were negotiating, but I think what's equally important in looking at the record is those people that were not negotiating but had a voice in that process or were trying to have a voice in that process and what they were really talking about back then and how a lot of those things have come true. So I personally have done a lot of extensive reading on this stuff and to get those perspectives. So I think my comments are always rooted in those, not just from the negotiators but also from people that were trying to press the pause button back then knowing we'd be sitting here today 40 years later having this conversation. So, but to your question, I think it would be important that some of them participate for sure.

Sen. Keim:

Thank you.

Sen. Carpenter:

Representative Bailey.

Rep. Bailey:

And for Senator Keim and the rest of the committee, I would also just refresh your memory that we have in this committee before looked at the Suffolk University report that really laid out the whole process of the Settlement Act in a very concise but objective manner. So if you're feeling like you need more of that background that is on this website and or Peggy or Soupy can get that report for you because we've all had copies and I know I've read it but I reread it on occasion and that might be helpful to the committee as we move forward.

Sen. Carpenter:

Thank you. If there are no more further questions. The committee, what I would like to do now is ask each of the other Chiefs one by one if they would like to come up, introduce themselves and offer any comments about the process or about the report going forward and then we'll go back in as a committee and continue to work. Chief Nicholas, would you like to join us at the table and offer comments? Are you shy and don't like, make sure you turn the mic off. Thank you.

Chief Nicolas:

I don't have a lot to offer.

Sen. Carpenter:

Chief Nicholas of the Passamaquoddy. I'm sorry.

Chief Billy Nicolas:

Chief Nicholas, Passamaquoddy Tribe, Indian Township. I don't have a lot to offer. I came down today to really listen and see where our representation from Maine was at and just try to get a feel of where this is going and what it's going to look like. And there were some questions in reference to whether this would go through as a single bill or if it's going to get broken up. And you know hearing some things in reference to law enforcement, which is my area of expertise as well and the courts and stuff. That's all important information. And I think if anybody that has them questions would want to visit our courts or see our judges, that would give a little bit more clarity on what the jurisdictions of the courts are and also the law enforcement capacity in each one of our reservations that have law enforcement there.

So what I would say is this has been long coming. I want to thank all of you. The Task Force. My Vice Chief sat in for most of the meetings during the Task Force because other duties sometimes set in with the Chiefs and we've got to do other things. But I followed this very closely. I'm happy with the presentation by Chief Francis today. A lot of our attorneys and everybody spent a lot of time being able to have some input and bring the law forward that needs to be brought and put in place. So from here I'll be participating much more. I look forward to the public hearings and we do have Elders that are still alive today and that question was asked earlier that may be able to participate. We have some that have been struck by some illnesses that they probably won't be able to participate based upon their age and dementia and some other things.

But when you start talking about Tribal Affairs, the 1980 Land Claims Settlement Act, and the rights and the sovereignty of the Tribes, they seem to snap out of it pretty quickly because that's what they live, that's their life. And if there's anything that could come out of this, it would be being able to have that life back to not just our people but our Elders as well in the future generations of every one of our reservations and the people that we represent. So thank you.

Senator Carpenter and Representatives and Representative Bailey that put the time in to be able to get this to where it is. So we're pretty excited to see where this goes. Thank you.

Sen. Carpenter:

Thank you Chief.

Chief Clarissa Sabattis:

Chief Clarissa Sabattis from the Houlton Band of Maliseet Indians. Thank you Mike for putting me on the spot when it came to listen today. Now I just wanted to say thank you to Chief Francis for representing all of us today and all of our perspectives. I also wanted to say thank you to this group and to everyone on the Task Force. I know it was a large commitment and there was a steep learning curve, but I do appreciate all of the hard work that's gone into this. And I think I was much like Chief Francis and I'm very cautiously optimistic at the start of this. But moving through the process, you know, I really, I have a lot more confidence in what we've done and what could potentially happen from this. I hope that you all are able to step outside of where you are and look at things from our perspective as well while you're making your decisions throughout this process. This is something that we've all lived with for a long time. I know that's hard to imagine if you're not living it. We also have Elders who are still around, but are suffering from various ailments. We've lost a lot of Elders who took part in this. So a lot of that historical knowledge is not there from those perspectives. I read about this and really have, have tried to reach out and have conversations because I was just a child when all this was happening. But that doesn't mean that it hasn't impacted me the way it has everyone else. And the people that were in the room when all this was taking place in the 1970s and 80s. So again, thank you all. I appreciate this opportunity.

Sen. Carpenter:

Thank you Chief. Chief Peter-Paul.

Chief Edward Peter-Paul:

You want to hear from me ?

Sen. Carpenter:

Not really, but I had to.

Chief Peter-Paul:

Okay. So for the Mi'kmaq this is a little bit-

Sen. Carpenter:

Just introduce yourself Chief sorry for the listening audience.

Chief Edward Peter-Paul:

Edward Peter-Paul, Chief of the Aroostook Band of Mi'qmaks. Thank you for giving me the time to speak, Mike. And the committee. The problem with the Mi'kmaq is we weren't specifically mentioned in the 1980's Act and another problem is that we don't even have a valid Act with the State of Maine as you see in your books it was never ratified by my Tribe. So this is just a little bit, you know, a different situation for the Mi'kmaq versus the other tribes. How we're tied into it is through the Maliseets. So we're supposed to get the similar treatment as the Maliseets and I think it originates from like early on we didn't have that many members and so there was an association of Aroostook Indians and it included both Mi'kmaq and Maliseets. But in the leadership, I believe it was the Maliseets at the time and that's why the Maliseets were the ones that were included in the 1980's Act. So that's what I want you guys to consider is we didn't really even have a big part in this and we receive no benefit, no financial benefit at all. Thank you.

Sen. Carpenter:

Thank you Chief. Who am I missing? Oh, I'm sorry Chief Dana do you want to?

Chief Peter-Paul:

[inaudible]

Sen. Carpenter:

Yes, that's right.

Vice Chief Elizabeth Dana:

Good afternoon. I'm Elizabeth Dana, of the Passamaquoddy Tribe. That's Vice Chief, sorry. And there's two Tribes. So we're at the Pleasant Point side. I wasn't really prepared to speak today. Just came to listen. I, like other Chiefs, come into this feeling hesitant. So just through the whole process, it was a building that up. From what I understand is the Settlement Act is supposed to be a living document and it's been stagnant for 40 years. So, to me and my perspective, this is just the start, the beginning of, you know we've tried and tried over the years, but to build that relationship with the Tribe and state, nation-to-nation building. And we're not here for you to grant us rights; it's restoring our rights. So we hope that people get that as well. So thank everybody for being here and we look forward to working with you and putting the time in. It was

a steep learning curve even for me out of the process and thank you for, let's get to the next steps. Thank you.

Sen. Carpenter:

Thank you. We will need to take a vote to report out legislation. And again, Representative Bailey and I had talked about the larger bill. I'll call back on the Chiefs here in a few minutes so don't go away. What I'd like to do now is to have somebody put forward a motion to do just that, to report out legislation. Once we get to it on the floor, we'll have a discussion about how to proceed with that and I can already identify a couple of places already. As it went along, I could identify a couple of places where there are going to be major opposition, minor opposition or no opposition, so let's talk about that and then we'll figure out how to move forward and we'll ask, I'm going to be a little bit unusual and asked for the input after the committees discuss these things we'll ask input from the Chiefs of how they think we should proceed. I think the consensus of this committee will be that we want to go forward with something. We want this to be a successful end result in total. Whether we could get to in total or not remains to be seen because there will be special interests here who will be opposed to some of these things. So if somebody wants to give me a motion. Representative Harnett.

Rep. Harnett:

Thank you Mr. Chair. I move that we put the recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act, those consensus items that they reached, into legislation.

Sen. Carpenter:

Thank you. Seconded by Representative Talbot Ross. All right, so let's discuss how we move forward and I'll put the 800-pound gorilla in the middle of the horseshoe here so I know that there will be interest from some parties, significant opposition on the gaming piece and let's just be honest, that's going to be a big issue in one floor down. That was the one that I identified pretty quickly as something that might drag down the larger bill. I invite thoughts on that. Senator Bellows.

Sen. Bellows:

I think for purposes of the public hearing it might be useful to take all of the consensus recommendations and draft that and then in the work session process try to see if we can replicate what the commission did, which was get to consensus for the whole group by potentially at that point trying to get to the most number of recommendations that we can find consensus on for an omnibus bill and at that point following the public hearing. If the Judiciary Committee is a place where there is a piece where we can't get to a place of consensus, then at that point we could separate that piece. And any legislator could bring it back in 2021. But I

would hate to carve it up prior to a public hearing or make an assumption because I think that one of the powerful pieces as I read through the recommendations and heard Representative Bailey speak is those 10-0 votes that you had on so many recommendations and I think not presupposing if we can until we hear some of the rationales.

Sen. Carpenter:

Representative Cardone, you raised the issue. Do you want to elaborate further on that or give us your thoughts on that?

Rep. Cardone:

I like Senator Bellows' suggestion. It's what I had been thinking as well. I do anticipate my own issues with the gaming. I don't want to jump to conclusions or make any decisions until I've looked at this and heard what the people in the public hearing have to say, but it's no secret that my district, the west side of Bangor has a casino. That casino not only employs a lot of people in my district, but it is a significant part of the tax base for the city of Bangor. But there's so many other issues here that I don't want to see that issue or any other single issue tank the other good issues and there's been so much work done here that I don't I don't want to have to see any Representative tank a lot of what they like for something that might be highly important to their own district or Senator for that matter, to their own district as well. So, that's my specific concern, but I think it's probably relevant or other issues are probably relevant in that same way to other members of this body. So I like Senator Bellows' thoughts.

Sen. Carpenter:

So do I understand what you suggest Senator Bellows would be that each, go ahead and explain what you mean.

Sen. Bellows:

That the analysts prepare an omnibus bill that has all of the recommendations in the context of the bill and that we put forward the bill as a whole at the hearing and then in a work session we go through recommendation by recommendation, maybe strap full votes until we get and try to get to consensus on as much of the omnibus as possible. But rather than having public hearings on 22 bills and also maybe not presupposing, I mean I hear, but not presupposing what might be controversial before there's been a public hearing because maybe in the context of hearing about all of these changes and how it might change the state's relationship with the sovereign Tribes and how it may reset things for the future. Maybe people's views will change. Maybe the different views will come to the forefront, but we can't know that until the public hearing.

Sen. Carpenter:

The one recommendation that might be problematic and maybe we can just draft it in such a way. And that's number one. The process if you will, going forward. We really haven't put meat on those bones so we don't have a recommendation except that we want to do this in a certain way. But maybe we can draft it in such a way that we fill in the blanks later. I mean, I don't know what's. I hear and I think that Senator Bellows' point is well taken. I'm all in on that.
Representative Harnett.

Rep. Harnett:

Thank you Mr. Chair. I echo the sentiments of my colleagues, but I think, I mean I made the motion for an omnibus bill and I think it is important to recognize that what we've been presented with today is the result of a lot of hard work with pieces that fit together. They're not 20 separate recommendations really. This is about recognizing sovereignty and every one of the recommendations is related to that core issue. I don't want to set 20 targets out there for 20 different groups to come across to try to knock them off one at a time. We have a book with 20 chapters. Let's deal with the book first and then if concerns arise about those individual chapters, deal with those then, but recognize that this is presented to us as a whole and I don't think you break up the work that's been presented after such effort has been put in at this point in time.

Sen. Carpenter:

Thank you. Representative DeVeau.

Rep. DeVeau:

Mr. Chair. I think that we really need to take a serious look at this as well and I agree with and appreciate what you said. The one thing that I think we're really missing here is the fact that this is a sovereign group of people that in 1776 decided to sign on to a government that was getting ready to fight a larger naval fleet and a superior military then decided to sign on and said (in Canada they call it a Peace and Friendship Treaty) Here it's a Treaty of Watertown. That said, "We're going to do the right thing and help you," and now we're having doubts about a casino as being an issue. That's not an issue to me. What the issue to me is, is that we haven't treated the group fair in the past 40 years or even longer than that and what we need to do is we need to do what's right as this body and look at the 22 issues like Thom [Harnett] said, and look at it as a whole and how are we going to treat our inherent people here from this point forward.

This is a huge thing. I think it should have taken a year to be honest with you instead of the six months to get this done right. I'm trusting the Chiefs that they got everything they wanted in here. So I think it's only fair for us to sit down and look at this and do what's right for them not for our community necessarily. We have to weigh the balance. But the thing is we have to look at this openly and not just focus on a casino.

Sen. Carpenter:

Thank you. Other comments or questions or motion on the floor? I'm sorry. Representative Babbidge.

Rep. Babbidge:

And I just would like to say I think that the report of the Task Force is very significant and it puts a great weight on this committee to deal with this in a meaningful manner. And I hope that what we achieve today is to merely provide a vehicle by which we go forward. Because I got this a couple of hours ago and there's a lot of homework for some of us to still do here. But I'm optimistic that the vehicle should probably remain comprehensive until we decide otherwise. And that would be Judiciary [Committee] in work session, in my opinion.

Sen. Carpenter:

Thank you. Since that's the way the Task Force was proceeding, unless one of the Chiefs wants to speak up, my sense of it is that that's what you want us to do going forward as well. And then again, we have control over this. There's nothing that says we can't break out a piece if we have to, but I agree with everything that's been said to this point. So motion on the floor is to authorize or direct legislative staff to draft legislation consistent with the 22 recommendations in the Task Force when changes to the Maine Indian Claims Settlement Implementing Act before that's moved by Senator Bellows, seconded by Representative Harnett. So sorry. Seconded by Representative Talbot Ross and any further discussion? All in favor? All opposed? Thank you very much. Our work has just begun.