

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

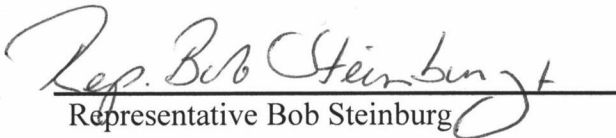
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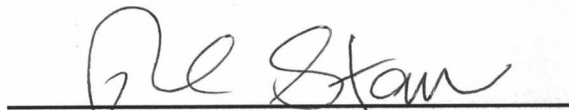
April 22, 2014

TO THE MEMBERS OF THE LEGISLATIVE RESEARCH COMMISSION:

Attached for your consideration is the report to the 2014 Regular Session of the 2013 General Assembly. This report was prepared by the Legislative Research Commission's Committee on Chowanoke Nation Recognition, pursuant to G.S. 120-30.17(1).



Representative Bob Steinburg
Co-Chair

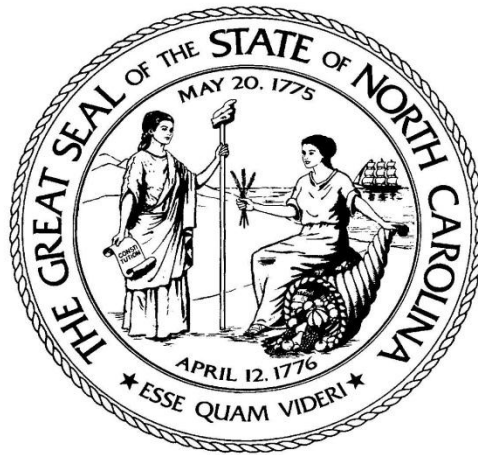


Representative Paul Stam
Co-Chair

Co-Chairs
Committee on Chowanoke Nation Recognition
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION
COMMITTEE ON CHOWANOKE NATION
RECOGNITION
NORTH CAROLINA GENERAL ASSEMBLY



**REPORT TO THE
2014 SESSION
of the
2013 GENERAL ASSEMBLY
OF NORTH CAROLINA**

MAY, 2014

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TRANSMITTAL LETTER

April 22, 2014

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TO THE MEMBERS OF THE 2014 REGULAR SESSION
OF THE 2013 GENERAL ASSEMBLY

The Legislative Research Commission herewith submits to you for your consideration its report and recommendations to the 2014 Regular Session of the 2013 General Assembly. The report was prepared by the Legislative Research Commission's Committee on Chowanoke Nation Recognition, pursuant to G.S. 120-30.17(1).

Respectfully submitted,

Senator Thomas M. Apodaca

Representative Timothy K. Moore

Co-Chairs
Legislative Research Commission

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LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

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2013 – 2014

Senator Thomas M. Apodaca
Co-Chair

Representative Timothy K. Moore
Co-Chair

Senator Phil Berger, Ex Officio
Senator Dan Blue
Senator Harry Brown
Senator Martin L. Nesbitt, Jr.

Representative Thom Tillis, Ex Officio
Representative John M. Blust
Representative Justin P. Burr
Representative Becky Carney
Representative Mike D. Hager

PREFACE

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The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is co-chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, or their designees, and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission authorized the study of Chowanoke Nation Recognition, under authority of G.S. 120-30.17(1). The Committee was chaired by Representative Bob Steinburg and Representative Paul Stam, Co-Chairs of the Committee. The full membership of the Committee is listed under [Committee Membership](#). A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library by the end of the **2013-2014** biennium.

COMMITTEE PROCEEDINGS

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The Legislative Research Commission's Committee on Chowanoke Nation Recognition met two times after the 2013 Regular Session. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library.

January 24, 2014

The House Committee on Chowanoke Nation Recognition (LRC)(2013) met on Friday, January 24, 2014 at 10:00 AM. The meeting was held in Room 643 of the Legislative Office Building. Members present were: Representative Paul Stam, Representative Bob Steinburg, Representative James Boles, Representative Charles Graham, Representative Julia Howard, Representative Frank Iler, Representative Annie Mobley, Representative Edgar Starnes, and Representative Michael Wray. Chairman Steinburg presided.

Staff made a presentation on state laws as they relate to tribal recognition. He stated that this committee originated from House Bill 549 and that the bill did not go forth.

Mr. Greg Richardson, the Executive Director of the North Carolina Commission on Indian Affairs, provided a PowerPoint presentation on the process for state recognition and state recognized tribes. His presentation outlined the basics of this issue by defining some of the terms used and by outlining the process the Commission of Indian Affairs uses to recognize Indian groups and the criteria by which the tribes are recognized. The committee discussed the tribes that are currently recognized by the State, and the tribes pending recognition before the Commission. Mr. Richardson explained the process for seeking recognition.

Staff gave a presentation on the recognition processes in other jurisdictions, including the State of Alabama, Virginia, and South Carolina laws regarding state recognition. Mr. Richardson was recognized to acknowledge that North Carolina assisted other states in the creation of their Commission on Indian Affairs.

Ms. Delois Chavis gave a presentation on the History of the Chowanoke and the proponents of state recognition. Chief Thomas Lewis Two Feathers was the first presenter and provided his own background. Wesley Durant Taukchiray gave an overview on the Chowanoke Indian history from 1585-1821. Mr. Marcus Robbins gave a presentation on the current-day Chowanoke group and why they think they deserve recognition. Mr. Robbins stated that the Chowanoke group are a separate group, but they do share relations to the Meherrin tribe, as well as other tribes across the state.

Ms. Chavis further explained why the Chowanoke group should have recognition and what benefits that recognition could bring. Mrs. Chavis highlighted that while Virginia had an Indian Affairs Council, recognition is given through the state legislature. She also goes through some of the more recent history of the tribe and recognition efforts.

Dr. Jay Hansford C. Vest (Professor at UNC-Pembroke) spoke about how the research for his writing supports the call for the Chowanoke group to receive state recognition. Dr. Vest also explains how different actions taken by government, have caused an eradication of heritage for Native Americans, which makes recognizing groups now so difficult.

Chief Wayne Brown (Chief of the Meherrin Indian Tribe) began his presentation with the colonial Native American tradition of delivering a wampum strand stick, which indicated the Native Americans wished to speak with the colonists, and in how many days. He said that he was not in opposition to the Chowanoke group, but to the process by which they are seeking recognition. Chief Brown said that the Commission on Indian Affairs is the body by which recognition is to be given. He stated that there is a structure in place to give recognition to groups, and there is also a structure in place should an appeal need to be filed. He pointed out that for many years the Meherrin-Chowanoke presenters from earlier, and their supporters, were members of, and active in, the Meherrin tribe with no call or desire to be called Chowanoke. Chief Brown closed his presentation by saying that the legislature should allow the process already in place, to determine whether or not the Meherrin-Chowanoke group should get recognition.

Mr. Fred Hedgepeth (Councilman and Public Relations Director, Meherrin Tribe) presented two pieces of evidence that link two Meherrin-Chowanoke group members as active and known members of the Meherrin tribe. Dr. Aaron Winston (Chairman of the Chowanoke Council) reported that they have many letters of support from the community, churches, Congressmen, elected officials, etc.

The committee had further discussions, but determined that there was no action to be taken at this meeting.

April 22, 2014

The Committee met to discuss the adoption of the draft report. The report was amended to include a legislative proposal, and was adopted with amendments incorporated into the final report.

FINDINGS AND RECOMMENDATIONS

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Findings

The Committee makes the following findings regarding State recognition of Indian tribes:

1. The General Assembly has delegated the authority, by statute, to the North Carolina Commission on Indian Affairs (Commission) to (i) study the existing status of recognition of all Indian groups, tribes, and communities presently existing in the State of North Carolina, (ii) establish appropriate procedures to provide for legal recognition by the State of presently unrecognized groups, and (iii) to provide for official State recognition by the Commission of such groups.
2. State recognition was granted to the following five tribes prior to or contemporaneously with the delegation of recognition authority to the Commission: Cherokee, Lumbee, Haliwa-Saponi, Waccamaw Siouan, and Coharie tribes.
3. The Cherokee, Lumbee, and Haliwa-Saponi were recognized prior to the grant of authority to the Commission. The Haliwa-Saponi were described as the "Haliwa" prior to the name being changed in 1997. The Waccamaw-Siouan and Coharie were recognized contemporaneously with the transfer of the Commission to the Department of Administration in 1977, and the establishment of its authority as provided in paragraph 1, above.
4. The Meherrin and Occaneechi tribes applied for State recognition with the Commission. The Meherrin tribe went through the Commission process, and were recommended for recognition. The Commission did not approve the Occaneechi tribe's petition; however, the ruling was reversed through the administrative review process and were successful in having the result reversed on appeal. The Sappony are the only tribe to originally receive recognition through the General Assembly, i.e., it did not go through the Commission's formal recognition process. The Sappony were originally described by statute as the "Indians of Person County" in 1913. In 1997, legislation was passed to "restore" official recognition to the tribe. In 2003, legislation changed the tribe's name to "Sappony" and retroactively granted official State recognition to February 3, 1913.
5. The Commission currently sequences the review of petitions from tribes seeking State recognition based upon the date of submission. Due to limited personnel and resources, the Commission only takes up one petition at a time, and it has been evaluating the current group seeking recognition for one year. There are five other pending petitions, which have not been reviewed or evaluated. The Chowanoke, who previously sought recognition through legislation, have not submitted a petition.

Recommendations

The Committee recommends that the General Assembly enact the following Legislative Proposal:

A BILL TO BE ENTITLED
AN ACT TO ENHANCE THE PROCESS BY WHICH THE NORTH CAROLINA COMMISSION ON INDIAN AFFAIRS REVIEWS PETITIONS, AND MAKES DECISIONS, ON WHETHER AN INDIAN GROUP SHOULD RECEIVE RECOGNITION AS A STATE TRIBE, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION COMMITTEE ON CHOWANOKE NATION RECOGNITION.

COMMITTEE MEMBERSHIP

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2013-2014

House of Representatives Members:

Representative Bob Steinburg, Co-Chair
Representative Paul Stam, Co-Chair

Representative James Boles
Representative Charles Graham
Representative Julia Howard
Representative Frank Iler
Representative Annie Mobley
Representative Ruth Samuelson
Representative Edgar Starnes
Representative Thomas West
Representative Michael Wray
Representative Timothy Moore, Ex Officio

COMMITTEE CHARGE

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Chowanoke Nation Recognition - The LRC Study Committee on Chowanoke Nation Recognition shall study issues surrounding State standards and procedures for officially recognizing an Indian Nation. The study shall examine factors associated with gaining such recognition, comparisons of official tribal recognition policies from other States, and historical precedent for the State bestowing recognition to an Indian Nation. The study shall include:

- (1) Specification of the rights, privileges, and immunities of American Indian Tribes which gain recognition from the State.
- (2) Whether such recognition would make members of the Chowanoke Nation of North Carolina eligible for special programs and services provided by the United States to American Indian Tribes.
- (3) Tribal recognition standards and procedures in the State as compared to other states.
- (4) Potential regional and local economic impacts of tribal recognition for the Chowanoke Nation.
- (5) Any other issues pertinent to this study.

STATUTORY AUTHORITY

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NORTH CAROLINA GENERAL STATUTES
ARTICLE 6B.

Legislative Research Commission.

§ 120-30.17. Powers and duties.

The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5), (6) Repealed by Session Laws 1981, c. 688, s. 2.
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena.
- (9) For studies authorized to be made by the Legislative Research Commission, to request another State agency, board, commission or committee to conduct the study if the Legislative Research Commission determines that the other body is a more appropriate vehicle with which to conduct the study. If the other body agrees, and no legislation specifically provides otherwise, that body shall conduct the study as if the original authorization had assigned the study to that body and shall report to the General Assembly at the same time other studies to be conducted by the Legislative Research Commission are to be reported. The other agency shall conduct the transferred study within the funds already assigned to it.

LEGISLATIVE PROPOSAL

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

BILL DRAFT 2013-RKz-40 [v.8] (04/17)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
4/22/2014 11:11:47 AM

Short Title: Enhance State Tribe Recognition Process. (Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE PROCESS BY WHICH THE NORTH
3 CAROLINA COMMISSION ON INDIAN AFFAIRS REVIEWS
4 PETITIONS, AND MAKES DECISIONS, ON WHETHER AN INDIAN
5 GROUP SHOULD RECEIVE RECOGNITION AS A STATE TRIBE, AS
6 RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION
7 COMMITTEE ON CHOWANOKE NATION RECOGNITION.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** It is the intent of this act to require the North Carolina
10 Commission on Indian Affairs to act on petitions as they are received, so that there
11 may be more than one petition pending a hearing before the Commission's
12 Recognition Committee at any one time. Further, the Commission should ensure
13 that it expeditiously reviews petitions and measures each petition against the
14 required criteria for recognition that have been adopted by rule, and provides the
15 petitioner with the result of the screening on a timely basis.

16 **SECTION 2.** Notwithstanding the application of any law, rule, or
17 regulation to the contrary, the North Carolina Commission on Indian Affairs shall
18 follow the following procedure as part of its responsibility to review petitions for
19 State recognition submitted by an Indian group: (i) within 10 days of receipt of a
20 Notice of Intent to Petition, the Commission shall acknowledge receipt of the
21 Notice and shall explain the petition procedures to the petitioner; (ii) upon receipt
22 of a fully documented petition to the Recognition Committee, the Recognition
23 Committee shall have 60 days to conduct a preliminary review; (iii) no later than

1 90 days after receipt of the documented petition, the Committee shall provide
2 petitioner with a report of preliminary findings, including any further
3 documentation needed by the Committee; and (iv) no later than 30 days following
4 the receipt of any further documentation received within any authorized response
5 period, the Recognition Committee shall conduct the hearing as provided by the
6 rules. Nothing in this section invalidates any applicable rule that is not
7 inconsistent with its provisions.

8 **SECTION 3.** The Department of Administration may, from funds
9 appropriated to the Department, assign necessary personnel to the Commission on
10 Indian Affairs for the purpose of assisting with the intake and review of both new
11 and existing petitions for State tribe recognition and to perform other
12 administrative duties for the Commission.

13 **SECTION 4.** This act becomes effective July 1, 2014.