

Maine Indian Tribal- State Commission



Chairperson
Paul Downing

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Testimony Before the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on the Judiciary

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Good morning Senator Breen, Representative Pierce, and Members of the Joint Standing Committee on Appropriations and Financial Affairs; Senator Carney, Representative Harnett, and members of the Joint Standing Committee on Judiciary. My name is Paul Thibeault, and I am the Managing Director of the Maine Indian Tribal-State Commission, or MITSC. I am here today to testify on the biennial budget bill, LD 221.

The Commission's baseline budget is on page A-329 of the budget document.

The Maine Indian Tribal-State Commission was created in 1980 as part of the Maine Implementing Act. By statute, the Commission consists of 13 members. At full strength, 6 of the members of MITSC come from the State, appointed by the Governor, and confirmed by the Legislature. The Tribes also appoint a total of 6 members, consisting of 2 from each of the signatory Tribes. Those 12 members choose the Chairperson. The primary role of MITSC is to continually review the effectiveness of the Maine Implementing Act and the social, economic, and legal relationships between the State of Maine, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, and the Penobscot Nation. The Commission makes legislative and other policy recommendations to the State and Tribal Governments based on its ongoing reviews. The Commission has additional specific regulatory responsibilities concerning designated bodies of water bordered or surrounded by Indian Territory, and MITSC is authorized to conduct studies and make recommendations regarding fish and wildlife policies on non-Indian lands to protect fish and wildlife on lands and waters that are subject to regulation by the Tribes and the Commission. MITSC also provides education and acts as a general resource on Tribal-State issues.

State funding for MITSC has been set at \$111,614 for several years. Continued flat funding is not adequate for MITSC to fully meet its statutory responsibilities under the Maine Implementing Act. MITSC currently has a skeletal staff consisting of a full-time Managing Director supplemented by part-time contractors for special projects, bookkeeping, and IT assistance. MITSC would not be able to employ even the current skeletal staff except that it has been utilizing a carryover of funds resulting from a period of inactivity in 2016-2018 when the State seats on MITSC were left vacant. To put it most simply, without the temporary carryover

funds MITSC would not even be able to have a full-time Managing Director. The current part-time contract work on research projects is also possible only because of the carryover funds. Last year the half-time Administrative Assistant position was eliminated. Preferably MITSC would have such a position to handle various office duties. However, that position is currently regarded as a luxury that MITSC cannot prioritize over more substantive staffing needs. Accordingly, this funding request does not include any funds to restore that position.

The Commission has stretched available resources in various ways. Last year a state-appointed commissioner donated many hours of pro bono legal work to prepare an amicus brief in the First Circuit Court of Appeals. For years, the former Chairperson donated extensive time, sometimes 20 or more hours per week, functioning essentially as a part-time volunteer staff member. To help MITSC stretch its resources, the current part-time contractors are working at low rates. For example, an outstanding retired attorney is assisting MITSC on special projects for just \$40 per hour. Over the past two years MITSC has developed a strong collaborative relationship with the neighboring Cobscook Institute which allows MITSC to utilize the Institute's excellent facilities at low costs.

On July 1, 2020 MITSC Commissioners approved a conservative budget for FY21 that includes only one employee (the Managing Director) and projects stretching out the carryover funds so that the Commission's current level of activity could be extended through FY22. However, that budget is not adequate for MITSC to function as it should. Moreover, even with such restricted spending, MITSC will likely face major retrenchment by the end of fiscal year 2022. MITSC's actual financial need to function as it should is approximately \$92,000 per year above the current flat funding level. That amount of funding would allow MITSC to employ a second full-time staff member to do substantive work and provide effective backup for the Managing Director. Even if such a second staff position was limited to 60% time, MITSC would still need approximately \$69,000 above its current annual funding. In the summer of 2019, a one-time grant enabled MITSC to have a second full-time staff member, a law student who did research and writing and performed many other tasks. That experience demonstrated that such a staff member is exactly what MITSC needs to function as it should. Lacking such a second employee, MITSC is understaffed and is currently using the remaining carryover funds to pay for part-time contractors to partially meet the staffing need.

MITSC used approximately \$49,000 of carryover funds in FY20. It appears that by June 30, 2021 MITSC will have used approximately another \$50,000 of carryover from FY20. Those figures would have been much larger if Covid-19 had not severely limited MITSC activity in the last four months of FY20 and for all of FY21 to date. The Commission has had no in-person meetings or related travel expenses since February of 2020. Last year, the Judiciary Committee and Governor's supplemental budget recognized that MITSC needed a one-time increase of \$50,000 for FY21. That potential funding increase was lost because of Covid-19.

MITSC has very broad responsibilities under section 6212 of the Maine Implementing Act. The relationships between the Tribes and the State encompass a wide range of issues including but not limited to natural resources, economic development, health care, public safety, public welfare, courts, corrections, and education. However, as a result of limited resources and staffing, MITSC is currently able to address only a portion of its statutory responsibilities. MITSC has been going through a period of transition. Only three of the Commission members were on the Commission two years ago. The current Commissioners, Tribal and State, are very talented and experienced people with a wide range of expertise in business, government, finance, public policy, law, natural resources management, health care, law enforcement, emergency management, and other fields. The Commission has recently completed a work plan to identify ongoing and new issues and projects that it wants to focus on for the balance of fiscal year 2021 and beyond. The current Commission has great potential to carry out its statutory role fully if not limited by inadequate funding.

MITSC is currently using the temporary carryover funds to address some issues that it has previously been unable to address. For example, MITSC is employing part-time contractors to conduct a study under section 6207(8) of the Maine Implementing Act with respect to the impact that fish and wildlife management policies and activities on non-Indian lands have on tribal sustenance rights and activities. That statutory provision has existed since the Settlement in 1980, but MITSC has not previously had the resources to conduct such a study. Using carryover funds, MITSC anticipates that it can complete the current study this year.

The Commissioners could decide to revise its conservative FY21 budget to expend more carryover funds this year to temporarily boost the staffing level and work product, but that would accelerate the date when MITSC would face drastic cuts.

In conclusion, the Maine Indian Tribal-State Commission needs an increase in State funding of approximately \$92,000 per year so that it can employ adequate staff. In the alternative and at a bare minimum, MITSC needs an increase of about \$69,000 per year so that it can employ a second staff member at 60% time.

Respectfully Submitted,

Paul Thibeault
Managing Director