STATE OF NEW YORK

S. 7770 A. 9898

SENATE - ASSEMBLY

February 21, 2018

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Judiciary

AN ACT to amend the Indian law, in relation to the state recognition and acknowledgement of the Montaukett Indians

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2 of the Indian law, as added by chapter 174 of the laws of 2013, is amended to read as follows:

§ 2. New York state Indian nations and tribes. The term "Indian nation or tribe" means one of the following New York state Indian nations or tribes: Cayuga Nation, Oneida Nation of New York, Onondaga Nation, Poospatuck or Unkechauge Nation, Saint Regis Mohawk Tribe, Seneca Nation of Indians, Shinnecock Indian Nation, Tonawanda Band of Seneca**, the Montaukett Indians,** and Tuscarora Nation.

§ 2. The Indian law is amended by adding a new article 11 to read as follows:

ARTICLE 11

THE MONTAUKETT INDIANS

Section 170. State recognition and acknowledgment.
171. Leadership of Montaukett Indians; elections; terms of office.
172. Qualifications of voters.
173. Qualifications for office.

Section 170. State recognition and acknowledgment. The Montaukett Indians seek to restore their acknowledgment and recognition by the state of New York. Such recognition and acknowledgment was improperly removed from the Montaukett Indians in 1910 in the case of PHAROAH V. BENSON, 69 Misc. Rep. 241(Supreme, Suffolk Co., 1910) affirmed 164 App. Div. 51, affirmed 222 N.Y. 665 when the Montaukett Indians were declared to be extinct. In 1994, the State Supreme Court, in the case of BREAKERS

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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MOTEL, INC. V. SUNBEACH MONTAUK TWO, INC., subsequently described the PHAROAH case as being of "questionable propriety". It is the purpose of this act to correct this impropriety by granting state recognition and acknowledgment to the Montaukett Indians.

§ 171. Leadership of Montaukett Indians; elections; terms of office. The Montaukett Indians shall have a chief or sachem, three tribal trustees, and a tribal secretary. They shall be elected by a majority vote by ballot of the blood right members of the tribe eligible to vote at the annual tribal meeting which shall be held annually on the first Tuesday in April. All officers shall hold office for a period of one year.

§ 172. Qualifications of voters. No person shall vote at the election provided for in section one hundred seventy-one of this article unless such person is at least eighteen years of age and is certified as a blood right member of the Montaukett Indians nation in accordance with the tribal rules, customs and regulations of the Montaukett Indians.

§ 173. Qualifications for office. All officers shall qualify for office and perform their respective duties in accordance with the tribal rules, customs and regulations of the Montaukett Indians.

§ 3. This act shall take effect after (a) completion of a review by the Secretary of State, as directed by the Governor, pursuant to Veto 210 of 2013 and Veto 174 of 2017, and (b) submission of an affirmative written determination from the Secretary of State to the Assembly, Senate and Governor that state recognition and acknowledgement is warranted; provided however, that if the Secretary of State submits a negative determination on or before January 1, 2019, this act shall be deemed repealed upon January 1, 2019; and further provided that if the Secretary of State fails to submit any determination on or before January 1, 2019, this act shall take effect upon January 1, 2019; provided, further, that the Secretary of State shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in sections one and two of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.