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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

January 9, 2004

Janie A. Davis, Executive Director
Commission for Minority Affairs
6904 North Main Street, Suite 107
Columbia, South Carolina 29203

Dear Ms. Davis:

In a letter to this office you questioned whether a particular concurrent resolution grants State recognition to the organizations named therein. You forwarded a concurrent resolution of the General Assembly dated May 14, 1987 which states in part that "...the General Assembly requests the Bureau of Indian Affairs of the United States Department of the Interior to recognize the...(named)...Indian tribes and organizations..." The effect of the resolution has been questioned in light of the amendment to S.C. Code Ann. Section 1-31-40 (Supp. 2003) which states that the State Commission for Minority Affairs shall "...promulgate regulations as may be necessary to carry out the provisions of this article including, but not limited to, regulations regarding State Recognition of Native American Indian entities in the State of South Carolina..." As a result of the legislation, regulations have been drafted regarding recognition of Indian tribes in this State. A question has been raised as to whether such would be applicable to the Indian tribes recognized in the referenced concurrent resolution.

A prior opinion of this office dated June 17, 1987 quoted the following:

(w)hile some constitutions provide to the contrary, the general rule is that a joint or concurrent resolution adopted by the legislature is not a statute, does not have the force or effect of law, and cannot be used for any purpose for which an exercise of legislative power is necessary.

The opinion quoted another prior opinion of this office dated August 6, 1974 which stated that a concurrent resolution "does not have the force and effect of law". The opinion commented, however, that inasmuch as a concurrent resolution is "...an expression of the sense of the two Houses concurrently, it does, nevertheless, carry great weight."

Consistent with such, the referenced concurrent resolution requesting recognition of the named Indian tribes and organizations, while carrying weight, does not have the force or effect of

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law. As a result, it is my opinion that such would not preclude applicability of the proposed regulations to the Indian tribes and organizations referenced in the resolution.

If there is anything further, please advise.

Sincerely,

A handwritten signature in cursive script, reading "Charles H. Richardson", followed by a horizontal line.

Charles H. Richardson
Senior Assistant Attorney General