

Wabanaki Alliance

Presentation by Penobscot
Nation Ambassador, Maulian
Dana & Attorney Corey Hinton



Agenda

1. Introductions
2. Presentation regarding 22 Task Force Recommendations which comprise of House Majority Leader Talbot Ross's bill LR 1341 "An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act" & Rep. Collings' bill LR 1551 "An Act To Create Gaming Equity and Fairness for the Native American Tribes in Maine"

(Q&A is encouraged through the presentation)



What is the legislation about?

Fairness & Equity

The Tribes in Maine are only asking to be treated like the other 570 other federally recognized tribes across the country. Since 1980 the tribes in Maine are unable to access what other benefits the federal government provides to tribes because of a provision in the federal Settlement Act. Maine Tribes must expressively be included in tribal law that is passed nationally. There are 151 laws since 1980 the tribes in Maine do not benefit from



How did we get here?



- *Joint a Tribal Council, of the Passamaquoddy Tribe v. Morton*, 528 F.2d 370 (1st Cir. 1975)
- 1980 Federal and State Settlement Acts (Previous to 1980 Tribes in Maine were under federal laws)
- Task Force on Tribal-State Relations (1997)
- Tribal-State Work Group (2008)
- Maine Indian Claims Task Force (2019)

Example of repercussions:

- While the other 570 federally recognized tribes have been able to benefit from federal Indian law being passed, the tribes in Maine have not. This has created inequity among tribes but also harmed rural economic development in Maine. The tribes could be an economic engine for Maine if they benefited from federal laws and funds directly.
- Tribes across the country can directly request FEMA funds for federal disasters. Tribes in Maine are not able to.
- Penobscot Nation HAD gaming on Indian Island. They had high stakes bingo. State of Maine sued, and they had to limit their gaming. Their gaming ultimately ended all together when Penn National opened Hollywood Slots.

130th Legislature Based on Task Force Recommendations



- Trust Land Acquisition
- Land Use and Natural Resources
- Fish & Game
- Taxing Authority
- Criminal Jurisdiction
- Civil Jurisdiction
- Gaming
- Federal Law Provisions

Summary: In general, once approved by the State of Maine, the revisions will create opportunities for Tribes to exercise Tribal law over activities occurring on Tribal lands and to receive equal treatment under federal law.

Adoption Process: Each Tribe will have to adopt the revisions through a referendum of the Tribal membership. If approved, the Tribal Council will then have to create Tribal laws that implement those revisions.

Important: Primer on Tribal Lands



INDIAN RESERVATIONS LANDS: A federal Indian reservation is an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe. (Via US Department of Interior Bureau of Indian Affairs)

TRUST LANDS: Taking land into trust is one of the most important functions US Department of Interior undertakes on behalf of the tribes. Acquisition of land in trust is essential to tribal self-determination. Tribes are sovereign governments and trust lands are a primary locus of tribal authority. Indeed, many federal programs and services are available only on reservations or trust lands. The current federal policy of tribal self-determination is built upon the principles Congress set forth in the Indian Reorganization Act and reaffirmed in the Indian Self-Determination and Education Assistance Act. Through the protection and restoration of tribal homelands, this Administration has sought to live up to the standards Congress established eight decades ago and indeed to reinvigorate the policies underlying the Indian Reorganization Act. (Via US Department of Interior Bureau of Indian Affairs)

FEE LANDS: The owner of the land hold the legal title to the lands. Anyone can own fee lands. For instance, if you own the title to your house and land you have fee lands. Fee lands must fall under the jurisdiction of the government entity they are located. For instance, a tribe which owns fee lands must pay taxes on those lands.

Trust Land Acquisitions



Task Force Recommendations Summary

- Amend the Maine Implementing Act to enable Tribes to acquire lands and place them in federal trust land status. In addition, eliminate state and local veto power over trust land acquisitions.

Outcome

- Tribes will be able to convert lands held in fee into federally protected trust land status. Trust lands will be exempt from state and local authority.

Method of Implementation

- Tribal Councils will have to pass resolutions requesting the Secretary of Interior to accept lands into trust status.

Land Use & Natural Resources



Task Force Recommendations Summary

- Restore and affirm Tribes' rights to regulate natural resources and land use on Tribal land.

Outcome

- Tribes will be able to regulate commercial, residential and other land uses on Tribal lands through zoning codes or natural resource regulations that will apply to Tribal members and non-members.

Method of Implementation

- Tribes can continue administer their existing land use and natural resource laws.

Fish & Game



Task Force Recommendations Summary

- Recognize Tribal laws regulating hunting and fishing on Tribal lands.
- Allow State of Maine to continue regulating activities off Tribal lands consistent with Tribal treaty rights.

Outcome

- Non-members hunting and fishing on Tribal lands will be required to comply with Tribal law.

Method of Implementation

- Tribes can continue administer their existing fish and game ordinances regulating fishing and hunting permits.

Taxation Authority



Task Force Recommendations Summary

- Recognize Tribal authority to tax Tribal members and entities on Tribal lands. In addition, recognize that those Tribal members and entities located on Tribal lands are exempt from state and local taxation including income, real property, and sales taxes.

Outcome

- Tribes will be able to tax sales, Tribal members, and businesses located on Tribal lands. Tribal members and businesses located on Tribal lands or sales occurring on Tribal lands, will not be required to pay state and local taxes unless they involve non-Indians.

Method of Implementation

- Tribal Councils will have to create and adopt a Tribal tax code.

Criminal Jurisdiction



Task Force Recommendations Summary

- Recognize Tribal criminal laws and grant Tribal courts authority to enforce those laws against Indian and non-Indian criminals.
- Implement concurrent jurisdiction with state and federal courts.

Outcome

- Tribal law enforcement will be able to arrest criminals who commit offenses on Tribal lands and bring them into Tribal court to receive due process and a fair trial.

Method of Implementation

- Tribal Councils must create a criminal code of laws to define criminal offenses including juvenile offenses and crimes of domestic violence. A council will also have to create a judicial code for the Tribal court to ensure each alleged offender receives due process and a fair trial.

Civil Jurisdiction



Task Force Recommendations Summary

- Restore exclusive Tribal civil jurisdiction over Indians and non-Indians on Tribal lands

Outcome

- Tribes will be able to pass laws protecting the health, safety, and welfare of the community that will be applicable to Indians and non-Indians located on Tribal lands. Tribal courts will be able to decide civil actions between Indians and non-Indians including contract disputes and family law matters.

Method of Implementation

- Tribal Councils will continue to pass civil regulatory laws and Tribal courts may revise their rules of civil procedure.

Federal Law Provisions



Task Force Recommendations Summary

- Amend the Maine Implementing Act to allow federal laws that apply to Indian country to apply to Tribes in Maine.

Outcome

- Existing federal law that applies to Indian country including the Indian Gaming Regulatory Act and Violence Against Women Act will apply to Maine Tribes. Any new federal laws applicable to Indian country will also apply to Maine Tribes.

Method of Implementation

- If federal law requires specific action on the part of Tribes then Tribal Councils will have to comply.

Gaming



Task Force Recommendations Summary

- Apply the federal Indian Gaming Regulatory Act to Tribes in Maine

Outcome

- Tribes will be able to conduct gaming activities in accordance with federal law and allocate revenues to Tribal members and government programs.

Method of Implementation

- Tribal Councils will be required to develop gaming ordinances to regulate gaming enterprises. Tribes may enter into agreements with the State of Maine to conduct certain card and dice games.



WABANAKI ALLIANCE



PENOBS

ALISEET

Woliwon

(Thank you)