

March 2, 2020

Senator Michael Carpenter, Chair
Representative Donna Bailey, Chair
Members, Joint Standing Committee on Judiciary

Re: LD 2094 - An Act To Implement the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act

Dear Senator Carpenter, Representative Bailey, and members of the Joint Standing Committee on Judiciary:

The undersigned organizations represent Maine-based advocacy groups working together to increase racial equity in our state through public policy. As such, we write to express our emphatic *support* for LD 2094.

This bill has the purpose of ensuring that the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians enjoy a degree of sovereignty comparable to that of hundreds of other federally-recognized Indian tribes across the country. Together with the Abenaki and the Aroostook Band of Micmacs, the Wabanaki people have lived in the region we now call Maine for millennia. For many times the duration of Maine's entire existence, they fished its waters, dug its clams, traded on its lands, and ran highly complex societies.

Indigenous nations of the northeast greeted the first European settlers with open arms – an attitude not always reciprocated.¹ A pattern of mistreatment by some European settlers and their descendants have continued in some form to this day. Ultimately, the sovereignty of tribal nations is inherent, not granted. Neither Maine, nor the United States, can change the right of the Wabanaki to govern themselves. However, as a result of their interactions with European settlers, the State of Maine, and the Federal government, these tribes have had their sovereignty and ability to control their own lives severely limited. Since the implementation of the Maine Indian Claims Settlement Implementing Act, our state has treated these sovereign tribes as if they are municipalities.

¹ Colin Woodard writes, “Their first in-depth reconnaissance mission, George Waymouth’s 1605 Archangel expedition, spent several weeks interacting with cautious Wabanaki in midcoast Maine. After finally establishing trust via trade and the hosting of feasts, Waymouth’s crew suddenly kidnapped five of the Wabanaki, tossed them in the hold and set sail for England.” *Colony, Chapter I: Dawnland*, Feb. 16, 2020, Portland Press Herald, *available at* pressherald.com/2020/02/16/colony-chapter-i-dawnland/.

As a result, these tribes have been denied the rights granted to most other tribes. This entails denying them the ability to fully govern themselves, denying them the right to prosecute those who attack and violate their people, curtailing their fishing and gaming rights, and imposing state taxes. But they are sovereign nations, not towns; and it is long past time the State treats them accordingly. LD 2094 gives Maine a chance to do that.

This bill emerged from a hopeful process of reconciliation between Maine and the indigenous nations in its territory. The Task Force on Changes to the Maine Indian Claims Settlement Implementing Act was broadly representative: it included Republican and Democratic legislators and Chiefs of every federally-recognized Tribe in Maine. In establishing the Task Force, the legislature recognized that “the tribal nations decided it was more prudent to negotiate a settlement of the land claims and other claims rather than continue litigation.”² In the 1970s, even though tribal nations had a strong legal claim to nearly two-thirds of the land of Maine (precipitating the federal Indian Claims Settlement and state Implementing Acts of 1980), tribal nations chose rapprochement over conflict.³ As tribal nations did then, and as they do again now, we strongly urge the legislature to also choose rapprochement over conflict. Indeed, for this issue, justice demands that we follow, and not buck, the national trend.

Maine is an outlier in its approach to tribal-state relations. In 2015, a United Nations investigation found that the “Maine Indian Claims Settlement Act and Maine Implementing Act create structural inequalities that limit the self-determination of Maine tribes.”⁴ The investigation further found that “structural inequalities contribute to Maine tribal members experiencing extreme poverty, high unemployment, short life expectancy, poor health, limited educational opportunities and diminished economic development.”⁵

This bill will help align Maine with the overwhelming majority of states, which follow federal Indian law. It will help end, and heal, decades of acrimony. It will help Maine be a good neighbor, rather than an imperious one. It will facilitate indigenous prosperity, spurring a rising economic tide that will lift the tribal nations’ impoverished rural neighbors. It will subordinate power to justice. For these reasons, we urge you to vote *ought to pass* on this bill.

² Joint Order, Establishing the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act (H.P. 1307), available here: <http://legislature.maine.gov/doc/2997>.

³ See *Joint Tribal Council of the Passamaquoddy Tribe v. Morton*, 528 F.2d 370, 372 (1st Cir. 1975).

⁴ S. James Anaya, *Report of the Special Rapporteur on the Rights of Indigenous Peoples on the Situation of Indigenous Peoples in the United States of America*, 32 *Ariz. J. Int'l & Comp. L.* 51, 92 (2015), available at <http://scholar.law.colorado.edu/articles/32>.

⁵ *Id.*

If you have any questions or would like to further discuss this matter with us, please contact (select a contact person).

Sincerely,

The following members of the Coalition on Racial Equity:

A. Philip Randolph Institute – Maine Chapter
American Civil Liberties Union of Maine
Health Equity Alliance
League of Women Voters of Maine
Maine Citizens for Clean Elections
Maine Equal Justice
Maine People’s Alliance
NAACP Maine State Prison Branch
Planned Parenthood of Northern New England