

TESTIMONY OF MICHAEL KEBEDE, Esq.

LD 1835 – Ought To Pass

An Act to Require the State to Notify Indian Tribes and Indian Nations When New Laws Are Enacted That Need to Be Certified

Joint Standing Committee on Judiciary

January 10, 2024

Senator Carney, Representative Moonen and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Michael Kebede, and I am Policy Counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to support LD 1835 because it is necessary to correct a fundamental inequity in Maine’s relationship with Wabanaki Nations.

Since 1980, when Congress passed the Maine Indian Claims Settlement Act (“MICSA”) and Maine enacted the Maine Implementing Act (“MIA”), Maine has treated Wabanaki Nations not as the sovereigns they are, but as municipalities with a legal status akin to that of Bangor, Lewiston, and other Maine towns and cities. This status has meant that as other Indigenous nations have had sovereign-to-sovereign relationships with states with which they share borders, Wabanaki Nations have been treated as less than sovereigns.

This bill would help correct that lopsided relationship. If enacted, this bill would prevent legislation that expressly identifies or applies to a Wabanaki Nation or member of a Wabanaki Nation from taking effect without the approval of the government of the affected Wabanaki Nation or Nations. The bill requires the Secretary of State to notify each affected Wabanaki Nation of the enactment of such legislation and of the deadline and process for the Wabanaki government to communicate its approval or disapproval of the legislation. If a Wabanaki Nation disapproves of the bill, it may request that the Governor collaborate with the Wabanaki Nation to establish a process for tribal-state consultation regarding the subject matter of the legislation.

This bill aligns with the nationwide trend toward enhancing tribal sovereignty. For at least the past 25 years, the United States, numerous state and local governments, and countries around the world have dedicated themselves to protecting and promoting the rights of indigenous peoples. This is reflected, for instance, in the signing of the United Nations Declaration on the Rights of Indigenous Peoples by every member of the United Nations (including the United States). This commitment stems from a recognition that many indigenous peoples were treated unjustly and unfairly and that all of us have an obligation and moral duty to promote indigenous recovery and recognize indigenous rights. In Alaska, for instance, as recently as 1988, the Alaska Supreme Court held that the Native villages in Alaska are “not self-governing or in any meaningful sense sovereign.” *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32, 34 (Alaska 1988). Eleven years later, however, that court reversed itself and held that the Native villages in the State possess the inherent powers of self-government. *John v. Baker*, 982 P.2d 738 (Alaska 1999). Wabanaki Nations are among those whose right to self-government has been eroded; this bill would help end that erosion.

We urge you to vote *ought to pass*.