Testimony in SUPPORT of LD 2007:
"An Act to Advance Self-determination for Wabanaki Nations"

February 26, 2024

Dear Senator Carney, Representative Moonen, and members of the Judiciary Committee:

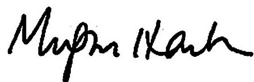
The State of Maine's recognition of Wabanaki self-determination is not a zero-sum game, wherein one's gain results in the other's loss. To the contrary, reams of research, including but not limited to Kalt et al.'s *'Harvard report'* of 2022, confirm that what is beneficial to the Wabanaki is also a boon to non-tribal communities, and to the entity of Maine as a whole. Furthermore, I believe the State's failure to honor, in word and in deed, the full dignity and sovereignty of the Wabanaki is an affront to the integrity of the State and its non-tribal citizens, such as me. In light of these basic facts and core values, I stand in strong support of LD 2007.

One of my personal touchstones is a belief in 'good process, good outcome.' The record shows, though, that transparency and mutuality by U.S. and State players were missing during the drafting of certain sections of the federal Maine Indian Claims Settlement Act (MICSA) and its state counterpart, the Maine Implementing Act (MIA). Of particular concern are those portions that relate to jurisdictional authority and the applicability to the Wabanaki of new additions to the body of federal Indian law, meant to benefit all federally recognized tribes. Were this lack of 'good process' the only reason to revisit and amend the MIA, in my view it would suffice.

Numerous pressures of circumstance also impacted the drafting of the Acts. Low on time to clear up lingering ambiguities, the Maine Indian Tribal-State Commission was created in service of ongoing review of the MIA and in the interests of relationship building, with federal recognition of and attendant responsibilities to the Tribes in place and existing Indian law for interpretive guidance. Notably, the Indian law 'canons of construction' require that treaties, agreements, statutes, and executive orders be construed in favor of the Indians; that terms be understood from the perspective of the Indians; and that all ambiguities be resolved in favor of the Indians. However, when disputes have arisen in the wake of the Acts, State courts in Maine have too often managed to slalom around the canons and rule in favor of the State, without a peep from the feds. I wish such unprincipled conduct lacked extensive historical precedent, but 'good process' by the government where Indians are concerned has long been in short supply.

These are among the reasons I support LD 2007, "An Act to Advance Self-determination for Wabanaki Nations," as it represents yet another opportunity for the State to say yes to integrity, mutuality, and 'good process' and, in so doing, step out of the way of the raft of 'good outcomes' available to us all.

With appreciation for your time,



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