



Permanent Commission RACIAL, INDIGENOUS & TRIBAL POPULATIONS

LD2007 “An Act to Advance Self-determination for Wabanaki Nations”

February, 26 2024

Senator Carney , Representative Moonen, and Honorable Members of the Judiciary Committee.

My name is Rae Sage, and I am the Policy Coordinator for the Permanent Commission on the Status of Racial, Indigenous, and Tribal Populations. The Permanent Commission’s role is to examine racial disparities across all systems and advise Maine State Government on ways to improve the status and outcomes of historically disadvantaged racial, Indigenous, and tribal populations.

The people of Maine know that all communities thrive best when we each have the freedom to choose our own paths. Self-determination plays a vital role in being able to respond to the unique needs of our communities.

The Legislature has recognized the importance of self-determination of Wabanaki tribes with a Joint Resolution in 2019 by the 129th Maine Legislature, which acknowledged that the current situation “*caused disenfranchisement, undue hardship and suffering of individual members of the tribes and tribal communities that have resulted in a loss of health, education and general welfare compared to the overall population of the State and the United States.*” It went on to state: “*that the Maine tribes should enjoy the same rights, privileges, powers and immunities as other federally recognized Indian tribes within the United States.*”¹

¹ S.P. 622 “JOINT RESOLUTION TO SUPPORT THE DEVELOPMENT OF MUTUALLY BENEFICIAL SOLUTIONS TO THE CONFLICTS ARISING FROM THE INTERPRETATION OF AN ACT TO IMPLEMENT THE MAINE INDIAN CLAIMS SETTLEMENT AND THE FEDERAL MAINE INDIAN CLAIMS SETTLEMENT ACT OF 1980”

According to the 2022 Harvard report examining the social and economic impacts of these policies, when looking at the other 48 states, self-determined, self-governed tribal economic development spills over positively to neighboring non-tribal communities time and time again.²

The Permanent Commission strongly supports legislation that recognizes the inherent rights of Wabanaki Nations. Maine currently stands decades behind the rest of the country when it comes to respecting the will of its Indigenous communities, but when Wabanaki Nations are able to enact their inherent right to self-govern, communities in Maine will see the kind of prosperity that pulls us all towards a better future.

Whether through economic growth, the protection of drinking water, or the building of vital new affordable housing, every community deserves the chance to strive towards a better, more equitable tomorrow. By denying Wabanaki nations the same opportunities afforded to other Indigenous nations in the country, the State perpetuates an ongoing cycle of harm. Respecting Wabanaki Nation's rights to self-determination is a vital step to ending this cycle. Thank you.

² Kalt J. P., Medford A. B. , Taylor J. B. (2022). *Economic and Social Impacts of Restrictions on the Applicability of Federal Indian Policies to the Wabanaki Nations in Maine*. Harvard University [2022-12-2-Economic-Social-Impacts-Fed-Indian-Policies-to-Wabanaki-Nations-final.pdf \(wabanakialliance.com\)](https://www.wabanakialliance.com/2022-12-2-Economic-Social-Impacts-Fed-Indian-Policies-to-Wabanaki-Nations-final.pdf)

Tribal Self Determination

We all do better when we have the ability to choose our own path.

People in Maine know that our communities thrive when we have the ability to choose our own paths. The Wabanaki, the first people to call this land home, know this, too. The Permanent Commission strongly supports legislation that recognizes the inherent rights of Wabanaki tribal nations to self-determination so that all of us can grow and thrive together.

Measures of Injustice

The federal Maine Indian Claims Settlement Act of 1980 and the corresponding state implementing law (settlement acts) were the result of a dispute between the federal and state governments over Maine's illegal sale of 12 million acres of federally protected tribal lands. The settlement acts required the Wabanaki Nations to surrender their rights to these lands in exchange for a federally-funded pathway to purchase a small percentage of that land back.¹ These laws also established a unique status for Wabanaki tribes which has allowed state government to block the applicability of federal Indian Law in Maine. This has prevented Wabanaki tribes from benefiting from the economic growth seen by other federally recognized tribes (Figure 5).² It has prevented tribal governments from accessing federal resources for disaster relief, environmental regulation, and other programs that could improve life for tribal citizens and their non-tribal neighbors in some of the most rural parts of Maine (Figure 6).³

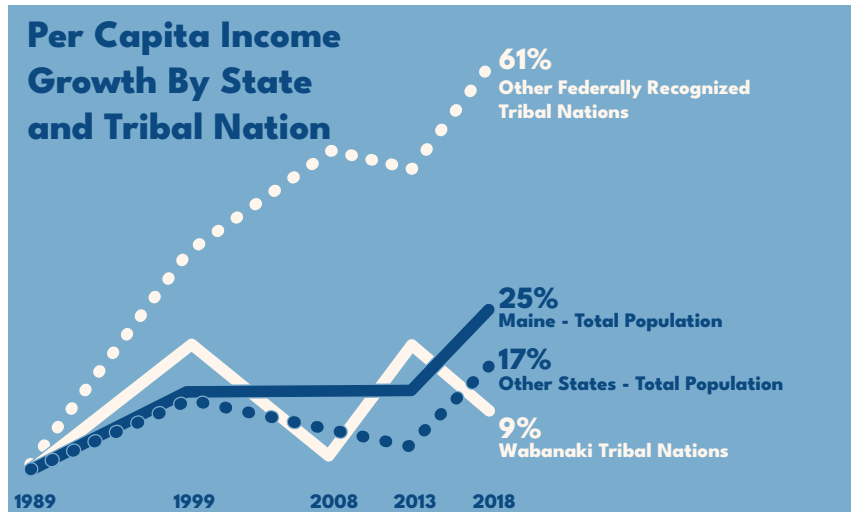


Figure 5. Restrictions on Wabanaki Nations' right to self-governance have played a substantial role in making them outliers among federally recognized tribes in economic growth. Adapted from Medford et. al. (2022).

Time and again, recognizing the strain in tribal-state relations resulting from the Settlement Acts, Wabanaki tribal leaders have answered the state's call to return to the negotiating table to develop amendments that are clearly needed. But time and again, the state has failed to follow through on meaningful changes. In 2019, the Legislature initiated a task force to reach consensus recommendations to change the Settlement Acts.⁴ We must continue this process in good faith and follow through on what we have learned.

Moving Toward Justice in 2024 RECOGNIZE WABANAKI NATIONS' RIGHTS

- **Pass LD 2007 - An Act to Advance Self-determination for Wabanaki Nations**

LD 2007 proposes to make substantial changes to the Settlement Acts to address some of the 2019 task force recommendations. These recommendations were developed through collaboration between the members of the task force, including legislators, tribal government representatives, and designees of the Governor, Attorney General, and the Maine Indian Tribal-State Commission. The recommendations would eliminate many of the provisions of the Settlement Acts that have caused conflict and legal battles between tribes and the state over the last four decades.



Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158

WASHINGTON, THURSDAY, DECEMBER 20, 2012

No. 165

The intent of this legislation is to improve communication, response times, and recovery of disasters in Indian Country while better respecting tribal sovereignty. I understand that tribes in Maine have a unique

Figure 6. Excerpt from the Congressional Record, where Senator Jon Tester (D-MT) explained that legislation designed to improve federal disaster response for federally-recognized tribes would not apply to Wabanaki Nations.⁵

References

- 1 Wabanaki Alliance. Understanding Tribal Sovereignty. Accessed 12 Jan 2024. <https://www.wabanakialliance.com/sovereignty/>
- 2 Braveman, P., Arkin, E., Proctor, D., Kauh, T. & Holm, N. (2022). Systemic And Structural Racism: Definitions, Examples, Health Damages, And Approaches To Dismantling. Health Affairs. Available at: <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.01394>.
- 3 Dieffenbacher-Krall, J. (2016). Briefing Booklet for the Roundtable to Review the Maine Indian Claims Settlement Act. Available at: <https://legislature.maine.gov/doc/3087>
- 4 Maine Indian Claims Task Force. (2019). Report of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act. Available at: <https://legislature.maine.gov/maine-indian-claims-tf>
- 5 Congressional Record, Vol. 158, No. 165, Colloquy, US Senator Susan Collins and US Senator Jon Tester, December 20, 2012.

- 23** Farhang, S., & Katznelson, I. (2005). The southern imposition: Congress and labor in the New Deal and Fair Deal. *Studies in American Political Development*, 19(1), 1–30.
- 24** Myall, J. (2020). State of Working Maine: 2020. Report from the Maine Center for Economic Policy. Available at: <https://www.mecep.org/wp-content/uploads/2020/11/State-of-Working-Maine-2020.pdf>
- 25** US Department of Agriculture. (2021). Demographic Characteristics of Hired Farmworkers. Available at: <https://www.ers.usda.gov/topics/farm-economy/farm-labor/#demographic>
- 26** Bond, E. et al. (2022) The Wabanaki Studies Law 21 Years After Implementation. Report. Available at: <https://www.wabanakialliance.com/wp-content/uploads/2022/10/2022-10-3-Wabanaki-Studies-Law-Report-Digital-final.pdf>
- 27** 20-A MRSA §4706, as amended by PL 2021, Chapter 247. An Act To Integrate African American Studies and the History of Genocide into the Statewide System of Learning Results. (2021)
- 28** Childs, D. (2017). African American education and social studies: Teaching the history of African American education within a critical pedagogy framework. *Ohio Social Studies Review*, 54(1)
- 29** U.S. Department of Justice. “Learn about Hate Crimes.” Accessed 12 Jan 2024. <https://www.justice.gov/hatecrimes/learn-about-hate-crimes>
- 30** U.S. Department of Justice. (2020). Maine Hate Crimes Fact Sheet. Available at: <https://www.justice.gov/file/1440386/download>
- 31** U.S. Department of Justice. (2023). Hate Crime State Data: Maine. Available at: <https://www.justice.gov/hatecrimes/state-data/maine>
- 32** Murray, C., Dumont, R., & Shaler, G. (2022). 2022 Maine Crime Victimization Report: Informing Public Policy for Safer Communities. Maine Statistical Analysis Center. University of Southern Maine. Available at: <https://rb.gy/7s541t>
- 33** Southern Poverty Law Center. (2022). Frequently Asked Questions About Hate and Antigovernment Groups. <https://www.splcenter.org/20220216/frequently-asked-questions-about-hate-and-antigovernment-groups#hate-group>