

James McCarthy
Brunswick
LD 395

To: Sen. Carney, Rep. Kuhn, and members of the Joint Standing Committee on
Judiciary

Re: Support for LD 395, An Act to Restore Access to Federal Laws Beneficial to the
Wabanaki Nations, sponsored by Sen. Rachel Talbot Ross, D-Portland.

Dear Sen. Carney, Rep. Kuhn and members of the Judiciary Committee, my name is
James McCarthy and I'm a retired journalist who lives in Brunswick. I appreciate this
opportunity to submit written testimony in support of LD 395.

I trust this committee and, hopefully, a majority of lawmakers understand and support
fully the basic talking points that I and other Wabanaki allies made in support of the
previous version of this bill, LD 2004. It's important to note that the earlier version of
this bill passed the Maine House and Senate in 2023 with broad bipartisan support
before it was vetoed by Gov. Janet Mills. I sincerely hope each of you and your
colleagues will give LD 395 the support it needs to be approved with a veto-proof
majority.

Many of the talking points for this bill are well-known. They seem so self-evident and
desirable that I will only repeat two of them:

Passing LD 395 will put the Wabanaki Nations on equal footing with all other
federally recognized tribes. Removing barriers that have been in place for 46 years
under the 1980 Settlement Acts, LD 395 will level the playing field for the Wabanaki
Nations and help their efforts to achieve full self-governance, build stronger and
healthier communities and create economic opportunities for both tribal citizens and
their neighbors in rural Maine. Doing so is an economic win-win — as you can verify
by reviewing the detailed findings within the 2022 Harvard report “Economic and
Social Impacts of Restrictions on the Applicability of Federal Indian Policies to the
Wabanaki Nations in Maine” Link: <https://www.wabanakialliance.com/harvardreport/>

It makes absolutely no sense to keep the Wabanaki Nations in second-class citizen
status compared to the rest of Indian Country, as they have been for 46 years. Here's
just one example: It took seven years of lengthy negotiations until a new state law was
passed allowing Wabanaki tribes to take advantage of the Violence Against Women
Act, which permits tribes to arrest and prosecute non-tribal individuals who commit
certain domestic violence crimes in tribal communities. Why such hurdles and
barriers? Why not allow the Wabanaki tribes to access immediately — instead of
having to seek state approval, often taking years — all the federal programs that were
vetted and approved by Congress to benefit the other 570 federal tribes?

I will close by encouraging committee members to review an independent analysis of
the 1980 Settlement Acts by Evan Richert and Roger Milliken, names I trust you'll
recognize for their decades of service and accomplishment here in Maine: Richert
brings to the analysis first-hand knowledge of how misunderstanding and
disagreements about the Settlement Acts can result in litigation, having served from
1995 to 2002 as director of the State Planning Office under Gov. Angus King.
Milliken is the former president and CEO of the Baskahegan Company, which
manages 150,000 acres of timberland in eastern Maine.

They shared copies of the 17-page analysis following last Friday's Wabanaki
Alliance's coalition meeting — and I trust a PDF can easily be provided to the
committee if it hasn't already. It is very much worth your time to read closely and

ponder deeply.

It addresses many of the misconceptions and fears that have sadly kept our state in an almost 50-year stalemate over diametrically opposed understandings of the 1980 Settlement Acts right from the start. Richert and Milliken, in my opinion, do an excellent job in pinpointing how and why those misconceptions came into play ... and still adversely affect the Wabanaki Nations today.

Here's their conclusion: "Based on our research, as summarized above, we believe it is time to address the Tribes' long-standing concerns that interpretations of MICSA and the MIA over the last 44 years have significantly limited their rights to self-determination beyond what we believe they agreed to in 1980. The effective preemptive veto by the state of new federal laws and policies creates time-consuming, expensive and demeaning hurdles for the Tribes as they seek to enjoy the share of sovereignty they do not think they relinquished, with control over the internal affairs needed for the well-being of their respective communities."

I learned a lot from their analysis and came away with an even stronger feeling that now is the time to modernize the 1980 Settlement Acts. Along with thousands of other Mainers, I stand with the four Wabanaki Nations in their decades-long efforts to succeed in reaching a better future. I hope all of the members of this committee and your colleagues in the House and Senate will join us in doing what's right for both the Wabanaki Nations, and Maine.

Thank you for the important work you are doing. I appreciate your time and consideration of my testimony urging you to vote "Ought to Pass" on LD 395.