

130th Maine Legislature
Joint Standing Committee on Judiciary
February 15, 2022

Testimony of Gerald D. Reid
Legal Counsel, Governor Janet T. Mills, on L.D. 1626
An Act Implementing the Recommendations of the Task Force
to Study Changes to the Maine Indian Land Claims Settlement Acts

Senator Carney, Representative Harnett, members of the Judiciary Committee, my name is Jerry Reid, I am Chief Legal Counsel to Governor Mills, and I am here this afternoon to testify on L.D. 1626, a bill that would repeal and amend substantial portions of the *Maine Implementing Act*, 30 M.R.S. 6201 *et seq.*

I'd like to begin by saying a few words about why legislation that would amend the Implementing Act presents unique considerations that call for particular attention to detail. When the Legislature amends the Implementing Act, and the Tribes consent to those amendments, the Legislature cannot unilaterally repeal or amend the new language in the future, even if it becomes clear that those amendments contain mistakes or reflect misunderstandings. Amending the Implementing Act is the only context in which a sitting Legislature can effectively bind its successors.

Against that background, any sitting Legislature considering amendments to the Implementing Act should proceed carefully and only when it has confidence that the meaning and potential consequences of the amendments are thoroughly understood. For the same reason, and to avoid disputes over interpretation, the language in any such amendments must be explicitly clear. The best way to achieve that level of clarity is to identify a specific problem that needs to be addressed, and then put in as much time as it takes to develop precise language to resolve the issue at hand. The Governor is not necessarily opposed to amending the Implementing Act, and in fact we recently did amend the Implementing Act to expand tribal jurisdiction over domestic violence offenses. But when amendments are being considered, it's critical that we avoid ambiguous language that could lead to lead future conflict or litigation.

While we are not able to support L.D. 1626 as drafted, I am happy to report that the Administration and the Tribes, with support from the Attorney General's office, have made significant progress toward an agreement that would cover some of the issues addressed in this bill. Last Summer, we began meeting with representatives from the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, and the Penobscot Nation to talk about how we could make meaningful progress in improving Tribal-State relations.

We identified several issues from those addressed in L.D. 1626 that we believed could both form the basis of an agreement and deliver substantial benefits to Tribal communities, including a formal Tribal-State collaboration process on certain State agency decisions that stand to impact the Tribes, and changes to our tax laws that would support Tribal communities. Our negotiated legislation will be the subject of a public hearing before this Committee later this week, and I look forward to discussing it with you in more detail then. Thank you.

