

STATE OF MAINE

—
**IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN**
—

**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**

WHEREAS, the ancestors of the members of the federally recognized Indian tribes located in what is now the State have inhabited these lands since time immemorial; and

WHEREAS, the United States of America adopted its Constitution in 1789 and the people of the State adopted their Constitution in 1819; and

WHEREAS, Indian tribes and their members have a legal political status recognized by the United States Constitution, including in Article I, Section 8, by the Constitution of Maine, including in Article X, Section 5, and pursuant to various treaties entered into by the tribes and what is now the State; and

WHEREAS, in 1972, the Passamaquoddy Tribe initiated a claim against the United States Government alleging that the transfer of a significant amount of tribal lands to the Commonwealth of Massachusetts, including the District of Maine, was legally invalid because such transfers were not approved by the United States Government, as required by the federal Indian Nonintercourse Act; and

WHEREAS, in 1975, the United States Court of Appeals for the First Circuit in Joint Tribal Council of the Passamaquoddy Tribe v. Morton affirmed that a trust relationship similar to that between the United States Government and other tribes exists between the Maine tribes and the United States Government that would require the approval by the United States Government of such land transfers and that the claims of the Maine tribes could proceed; and

WHEREAS, other Maine tribes alleged similar claims; and

WHEREAS, recognizing that protracted litigation would result in substantial economic and social hardship for large numbers of landowners, citizens and communities within the State, the Maine tribes decided it was more prudent to negotiate a settlement of the land claims and other claims rather than continue litigation; and

WHEREAS, the Maine tribes and Federal Government negotiated terms of settlement that were encompassed in the February 10, 1978 memorandum of understanding; and

WHEREAS, the Maine tribes were asked by the Maine Congressional Delegation to negotiate terms related to jurisdictional matters as a part of an overall settlement; and

WHEREAS, negotiations between the Maine tribes and State led to the enactment of An Act to Implement the Maine Indian Claims Settlement in April 1980 by the Legislature, but that Act

was not effective until the United States Congress enacted the Maine Indian Claims Settlement Act of 1980 that October; and

WHEREAS, the language of these laws has resulted in disagreements with respect to sustenance and jurisdictional rights of the Maine tribes, and such disagreements have caused protracted and long-standing litigation between the State, Maine tribes and Federal Government; and

WHEREAS, these disagreements have also resulted in the diminishment of rights, privileges, powers and immunities of the Maine tribes compared to those generally enjoyed by other federally recognized Indian tribes within the United States; and

WHEREAS, this diminishment of rights, privileges, powers and immunities of the Maine tribes has 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; and

WHEREAS, significant time and taxpayer resources have been spent litigating with the Maine tribes rather than focusing on efforts to develop mutually beneficial solutions that allow all of the State's citizenry, including its tribal citizenry, to prosper and progress; and

WHEREAS, the State does not prosper when a specific portion of its citizenry suffers, and the State's resources are better spent on developing jobs, strengthening infrastructure and improving the health, education and safety of all its citizens; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Twenty-ninth Legislature now assembled in the First Regular Session, on behalf of the people we represent, take this opportunity to recognize that the Maine tribes should enjoy the same rights, privileges, powers and immunities as other federally recognized Indian tribes within the United States; and be it further

RESOLVED: That the Legislature supports a collaborative process to develop amendments to An Act to Implement the Maine Indian Claims Settlement and the federal Maine Indian Claims Settlement Act of 1980 that would clarify that the Maine tribes enjoy the same rights, privileges, powers and immunities as other federally recognized Indian tribes within the United States.