

Do Reserved Seats Work?
Evidence from Tribal Representatives in Maine

Cameron DeHart and Elliot Mamet*

July 13, 2020

Abstract: Do reserved seats yield substantive representation for traditionally marginalized groups? To answer that question, we examine reserved seats for Native American tribes in the Maine legislature. Tribal representatives, who can participate in debate but lack a vote, have represented tribes in Maine's predominantly white legislature since statehood in 1820. We take advantage of a 1995 rule change that allowed tribal representatives to initiate legislation, and an original dataset of pro-tribal bills, to estimate the effect of reserved seats on the production of pro-tribal bills. We find that once tribal representatives were allowed to write bills, they produced over half of all tribal-related legislation during a 35-year period. Legislators with tribal constituents sponsored fewer relevant bills after the reform but continued to cosponsor pro-tribal legislation. Although our results are promising, we caution that reserved seats are not a panacea for improving indigenous representation.

Keywords: Reserved seats, Native American politics, indigenous representation, state politics, American political development, non-voting representation

* Both authors contributed equally to this manuscript; their names appear alphabetically.

On multiple dimensions, American Indian politics is about isolation from centers of institutional power.

—Laura Evans (2011, 664)

Since Maine became a state in 1820, it has tried to make us disappear—and, when that didn't happen, it chose to make us invisible.

—Donna Loring (2008, 11)

Reserved seats help under-represented groups gain power in political institutions. From gender quotas to purpose-drawn majority-minority districts and at-large seats for racial and ethnic minorities, reserved seats improve descriptive representation and, in some cases, also improve substantive representation in legislatures (Reynolds 2005; Muraoka 2019). Reserved seat legislators rarely have the power to dictate the legislature's agenda, where minority interests can be advanced or thwarted, but studies of reserved seats tend to focus on the people holding these seats: their behavior in office, how they represent group interests, and how they compare to other legislators from the same group (Crisp et al. 2018). Less is known about how reserved seats change the incentives and behavior of legislators in non-reserved seats.

This paper argues that while reserved seats legislators (RS) can improve the representation of group interests, their participation can be associated with lower support for group interests among non-reserved seat legislators (non-RS). Electoral rules structure the incentives that reserved seat and non-RS legislators face by determining the size and demographic composition of districts, as well as the translation of votes into seats (Kroeber 2018; Crisp et al. 2018). We argue that legislative rules also play a role in structuring legislators' incentives to represent minority group interests.

To make our argument, we turn to a remarkable institution: reserved seats for Native American tribes in the Maine House of Representatives. Maine's tribal representatives, representing the Penobscot (since 1823), the Passamaquoddy (1842), and the Houlton Band of

Maliseet (2012), are unique among the fifty states. The institution is interesting for two reasons. First, Maine voters on tribal rolls may vote for their at-large RS legislator *and* the non-RS legislator in their House district. The result is a weak form of dual representation for Native Americans in the lower house: one person, two votes. Second, tribal representatives are non-voting members of the legislature -- they contribute to legislative debate without having a say in the final outcome, similar to other non-voting representative institutions.¹

For over a century, the Maine's tribal representatives' role was more akin to ambassador or "legislative advocate." Their activity was limited to giving speeches and lobbying legislators, most often the non-RS legislators from districts that included the reservations and tribal lands where many tribe members lived. Without the ability to sponsor legislation, however, the RS legislators had little hope of advancing their groups' interests. In 1995, the legislative capacity of tribal legislators changed: the state legislature enacted a rule allowing tribal representatives to sponsor bills related to Native Americans, an act of legislative power that had been denied for two centuries. The RS legislators would soon thereafter gain the ability to cosponsor legislation on any subject.

¹ The most well-known example of reserved seats are the Maori seats in the New Zealand Parliament, dating back to the late 19th century (Fleras 1985; Iorns Magallanes 2005). Thirty-two countries feature reserved seats in their national assemblies, most with full voting rights (Reynolds 2005). In the U.S., six non-voting members serve in Congress, hailing from Puerto Rico, the American Samoa, the District of Columbia, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands (Holtzman 1986).

We take advantage of this 1995 rule change to estimate the direct and indirect impact of reserved seats on the tribes' substantive representation. First, we outline the history of the institution and consider how the presence of reserved seats can change other legislators' behavior. To test our hypotheses, we collect data on Maine legislation pertaining to Native American policy interests before and after RS legislators were allowed to sponsor bills. We describe the tribal representatives' behavior and estimate the impact of the rule change on the representation of tribal interests in the legislature as a whole. We find non-RS legislators changed their behavior after the rule change conditional on the presence of a tribal community in their district. The marginal effect of the change, however, is swamped by the contributions of the RS legislators themselves.

Our study makes three contributions to the literature. First, we explore the impact that reserved seats have on representation, as well as their impact on non-RS legislators' incentives to represent minority group interests. Second, we provide new data and background about an unusual class of political institutions—reserved seats—that research suggests is “much more widespread, and less idiosyncratic, than many scholars previously thought” (Reynolds 2005). Finally, this study sheds light on descriptive and substantive representation of Native Americans, a topic that remains conspicuously understudied in political science (V. Deloria 1969; Ferguson 2016; Wilkins and Stark 2018; Johnson and Witmer 2020).

The Historical Development of Maine's Tribal Representatives

A central puzzle in the reserved seats literature is when and why these institutions are created in the first place (Reynolds 2005). Drawing on archival material, accounts of Maine history, and the words of former tribal representatives themselves, this section provides a brief

account of the origins and development of Maine's tribal representatives from the Revolutionary War to today (Starbird, Soctomah, and Wright 2016).

Why does Maine's legislature—unique among the states—feature non-voting tribal representatives? Predating Maine's statehood in 1820, the tribal representative's origins are found in the earliest contact between Europeans and Penobscot Nation in the early seventeenth century. Amid disease, displacement, and encroachment by traders, Penobscot leaders were forced into a series of alliances with Massachusetts colony (Smith 2005; Kolodny 2007, 7). By 1775, they were so disgusted with British encroachment on their timber supply that the Penobscot agreed to ally with the revolutionaries if, according to Chief Joseph Orono, “the grievances, under which our people labor, were removed” (Kolodny 2007, 14). The Provincial Congress responded in turn by prohibiting trespassing near the Penobscot River—and by accepting the appointment of one Captain Lane as Penobscot agent (Mandell 2003). This, then, appears to be the origin of the tribal representative: the Penobscot agent who attempted to make peace with Massachusetts to forestall even worse treatment from the British.

Passamaquoddy support for the revolutionaries was welcomed, at first: George Washington wrote them a letter of appreciation for their support in the war (Washington [1776] 1997). Yet after the war ended, tribal support was brutally disregarded, and the tribes were never consulted about the terms for peace. While a 1794 treaty granted the Passamaquoddy, Penobscot, and Maliseet millions of acres of land (V. Jr. Deloria and DeMallie 1999a), in the years to follow, Massachusetts failed to uphold its treaty obligations, annexing the vast majority of remaining Native land. It became, according to Penobscot elder Florence Nicola Shay, “merely useless pieces of paper today as all promises have been broken, dividends are not paid and all obligations stipulated in them have been cast aside” (Shay 1942, 5).

Maine became a state in 1820 and its treaty obligations with the Penobscot were transferred from Massachusetts (V. Jr. Deloria and DeMallie 1999c, 1999b). The earliest record of a Penobscot tribal representative to the state legislature is 1823, and in 1842 for the Passamaquoddy (Maine State Law Library 2017). These representatives could address the legislature but were unable to vote (Kolodny 2007, 17). Little is known about how they were chosen: 1835 is the earliest record of an election for tribal representative; prior to then, the representative was selected based on custom (Dorr 1998, 41). By 1892, tribal representatives were chosen by Australian ballot system, a reform judged successful by the reform-minded state agent (Rolfe 1892, 7).

Formally incorporated into Maine law in 1866, tribal representatives often took an active role in legislative affairs (Maine State Legislature 1866a, 1866b). For example, Passamaquoddy representative Lewis Mitchell delivered a famous 1887 floor speech reiterating tribal support for the Revolutionary War and expressing outrage at the state's violation of treaty obligations (Mitchell 2014, 170–72). Yet the tribal representatives were structurally disadvantaged compared to their peers. Unable to vote, they were often stymied by state Indian agents, appointed by the legislature to administer tribal welfare and coordinate tribal elections. These agents often exhibited marked hostility to Native peoples, deriding the tribes' "backwardness," and noting "the people to which this tribe belong do not possess the high order of intellect that distinguish the European race" (Purinton and Nutt 1861, 10). State agents—present in Maine from 1820 to 1980—also worked to foster discord within Native communities and weaken tribal political clout (Dorr 1998).

By the turn of the 20th century, elections for tribal representative were covered in local newspapers, which reported "the Penobscot Indians are not behind their white brothers on biennial elections" (*The Old Town Enterprise* 1910). Tribal representatives attended funerals for state dignitaries and provided constituency services (*The Penobscot Times* 1937), but state oppression

continued. In 1941, amid a rise in anti-Indian sentiment, the state legislature debated whether to reduce the tribal representatives' salary. The legislature ultimately revoked the tribal representatives' right to sit as members of the body, changing the statutory language that seated them from "to the Legislature" to "at the Legislature" (State of Maine 1941). This change had dramatic effect: tribal delegates were now "forced to stand behind the glass partition at the back of the chamber, along with lobbyists, reporters, and other onlookers," like a mere visitor, according to one first-hand account (Kolodny 2007, 23–24). They continued to receive a salary, however, leading critics to label them state-paid lobbyists (J. Clark 2000, 9).

In 1967, Maine Indians were given the right to vote in state legislative elections in addition to tribal elections—among the last groups in the U.S. to gain voting rights (Shay 1942, 12–13; D. C. Hansen 1967; J. Clark 2000, 4 n.13; Rollings 2004, 139 n.27; Loring 2004, 28). Suffrage expansion in Maine coincided with the 1968 enactment of the Indian Civil Rights Act, the Red Power Movement, and the Alcatraz occupation. Buoyed by these trends, the state legislature in 1975 debated reinstating tribal representatives as speaking members. Skeptical legislators asked why Native Americans alone should have a reserved seat, whether they were adequately represented by non-RS legislators, and whether a representative could be effective without speaking privilege (Maine State Legislature 1975, A65–69). Some made racist remarks ("65 percent of them are unemployed, and 65 percent of them will always be unemployed, because in my opinion they don't want to work," Rep. Dudley, in Maine State Legislature 1975, A66). After long debate, the House voted 107-40 to approve the rules change, and the tribal representatives were seated amid applause (*The New York Times* 1975).

Other changes further enhanced tribal representatives' ability to legislate. In 1995, tribal representatives gained the right to sponsor legislation related to "Indians and Indian land claims".

The rule change passed unanimously in both houses with little debate.² Another rule change in 1999 extended the right to cosponsor legislation on any topic. Today, tribal representatives can serve on and vote in standing committees, and have previously served as voting members on joint committees, which play an important policymaking role in the state. The legislature created a reserved seat in 2010 for the Houlton Band of Maliseet Indians, bringing the number of tribal representatives to three.

Tribes in Maine are separate sovereigns, removed from their land by white settlers and denied voting rights for two centuries. Gaining federal recognition late in U.S. history, the tribes have experienced hardship at the hands of state violence, neglect, and the suppression of civil and voting rights. The legacy of this history culminates in the tribes' modern struggle to influence public policy at the state level. The 1980 Maine Indian Claims Settlement Act settled tribal land claims but limited Maine's recognition of tribal sovereignty. Shortly after federal recognition was extended to the Penobscot and Passamaquoddy in the late 1970s, the Settlement Act set Maine apart from other states by designating tribal reservations as "municipalities," limiting tribal sovereignty over a range of policy areas in turn. The result is that Maine tribes are forced to seek

² The rules change, Joint Rule 28-A, was enacted by H.P. 156, introduced by Rep. Roger Pouliot (D-Lewiston). The legislative record and newspapers give little indication of why Pouliot introduced the rule change; it is unclear if the tribes lobbied for its passage. A non-tribal legislator, Rep. Robert Keane, offered the sole comment during the debate: "Being the only sponsor of Indian Nation bills in the Old Town area, I certainly support this bill and feel that it would be in the best interest of the Penobscot Nation" (Maine State Legislature 1995, H-87). The first Native-sponsored bill, related to land trusts, would be not introduced for another year.

redress in the state legislature to an extent unusual among federally recognized tribes. For better or worse, reserved seat legislators play a central role in that process.

Tribal-state relations have soured in recent years. In protest of then-Governor LePage's flouting of tribal sovereignty, the Penobscot and Passamaquoddy vacated their seats in 2015. Tribal leaders derided an executive order issued by LePage asserting state control over all tribal territory and governments. Remarked Penobscot Chief Kirk Francis, "We have gotten on our knees for the last time... From here on out, we are a self-governing organization, focused on a self-determining path" (du Houx 2015). As of 2020, there is no Penobscot representative serving in the legislature for the first time since statehood, although the Passamaquoddy returned their representative to the chamber in 2016. The Houlton Band of Maliseet Indians joined the Penobscot and withdrew their representative in 2018 over a gaming law dispute.

Reserved Seats and Descriptive Representation for Native Americans

A growing body of research examines the relationship between reserved seats—such as Maine's tribal representatives—and representation. The bulk of this work studies gender quotas in proportional representation systems and reserved seats for ethnic and religious minorities and indigenous people (King and Marian 2012; Htun and Ossa 2013). There is mixed evidence reserved seats improve substantive representation, with some evidence suggesting representation depends, in part, on the rules under which legislators are elected (Crisp et al. 2018). Other scholars have noted the roles that political parties (Zuber 2015) and institutional strength (Muraoka 2019) play in determining the behavior of RS legislators and support for minority group interests. RS legislators are more effective when they have access to institutional power, by being part of the government or through identity-based parties that elevate the group's interests (Templeman 2018).

A second body of research explores how descriptive representation is associated with substantive representation for groups such as African-Americans (Swain 1993; Gay 2002; Tate 2004), Latinos (Bratton 2006; Wallace 2014), women (Swers 2005; Wängnerud 2009; J. H. Clark and Caro 2013), and LGBT Americans (Haider-Markel 2007; E. R. Hansen and Treul 2015). Native Americans are featured less prominently in this literature (Williams and Schertzer 2019). Extant research examines the links between indigenous constituents, party identification, and pro-indigenous voting in Congress, finding that a higher percentage of constituents who are Native Americans, as well as the presence of a recognized tribe, is associated with more pro-indigenous voting behavior. Democrats and liberal members of Congress are more likely to support Native American legislative priorities than Republicans and conservative members, even when controlling for constituency effects (Turner 2005; Conner 2014).

Our paper connects these two research streams while acknowledging the unique status of Native American tribes. Their status as sovereign nations distinguishes federally-recognized tribes from indigenous groups in other countries, which may have different political rights vis-a-vis the national government, as well as other traditionally under-represented classes, including women and ethnic/religious minorities. Nonetheless, previous research on indigenous reserved seats suggests they are analytically comparable to seats for other marginalized groups (Reynolds 2005; Krook and O'Brien 2010; Templeman 2018; Kroeber 2018).

Population and geography present two obstacles for tribes seeking descriptive representation without reserved seats. Today, the total population of Mainers who identify as Native American or American Indian, including enrolled members of the four federally-recognized

tribes, is approximately 8,000 in a state of 1.3 million people (about 0.6%).³ If the state selected its non-RS legislators in a proportional representation (PR) system, indigenous Mainers would hold just one House seat. Under the current electoral system, however, the tribes cannot mobilize their votes to elect an enrolled tribal member to one of Maine's 151 lower house seats.⁴ Thus, the three tribal representatives elected at-large by members of each tribe represent a unique opportunity for indigenous participation. Reserved seats, in general, can help groups achieve descriptive representation when they lack the population to compete in single-member districts.

We argue that the uneven distribution of Native American constituents across districts creates incentives for some non-Native legislators to be more sensitive to Native interests than others. When an unevenly distributed minority group gains an at-large reserved seat, the non-RS legislators with constituents from that group face conflicting pressures to adjust how they represent the group's interests. Whereas RS legislators are elected solely by minority group members, the non-RS legislators must balance the interests of the various groups in their district. We expect the incentive to represent a group's interests increases as the proportion of constituents in that group

³ Data from U.S. Census Bureau. This figure includes members of Maine's fourth tribe, the Aroostook Band of Micmac Indians, as well as individuals who are unenrolled or otherwise unaffiliated with a Maine tribe.

⁴ An unsuccessful proposal in the 125th legislative session would have grouped the four tribes in a single district with one non-RS representative (L.R. 2307 by Passamaquoddy representative Madonna Soctomah). Three former tribal representatives have run unsuccessfully for non-reserved seats in the state legislature: Donna Loring (Penobscot) in 2004, David Slagger (Maliseet) in 2012, and Henry John Bear (Maliseet) in 2016.

increases, especially in single-member plurality districts where minority group voters can be influential in a close election.

When RS legislators can advocate for their group's interests, non-RS legislators face a different set of incentives to legislate on the group's behalf. Reserved seats decrease the risks and rewards non-RS legislators associate with representing minority group interests, and a non-RS legislator with minority constituents might sponsor fewer bills that champion the group's interests if she thinks those voters are less likely to punish her. A similar logic applies in multi-member districts, where legislators from the same district may coordinate to represent different constituent groups (Crisp and Desposato 2004).

A competing explanation suggests non-RS legislators will maintain (or increase) their contribution to representation because their incentive to represent minority group interests remains unchanged (or increases) due to the presence of reserved seats. Reserved seats raise the visibility of minority group priorities in the legislature, reinforcing the non-RS legislator's belief that they must continue advancing the group's interests or else be punished for shirking. A non-RS legislator who did not previously contribute many bills may increase her contribution because the perceived reward for acting (or the cost of failing to act) has increased. We develop our hypotheses further in the next section.

Hypotheses

To begin, a note on measuring substantive representation. Many studies rely on roll call data, although more recent work examines constituency service and legislative oversight (Minta 2009; Lowande, Ritchie, and Lauterbach 2019). In this paper, we examine bill sponsorship for two reasons. First, tribal representatives cannot vote on bills; we cannot observe their revealed

preferences on specific policy proposals. Bill sponsorship and cosponsorship, however, are a good alternative measure of the types of policies a legislator supports (Swers 2005; Wilson 2010; J. H. Clark and Caro 2013; Crisp et al. 2018; Muraoka 2019). Additionally, tribal representatives did not always have ability to initiate legislation but relied on non-tribal legislators to sponsor bills on their behalf. By studying sponsorship patterns, we can observe the effect of allowing tribal representatives to introduce legislation after 1995, and also test predictions about how the behavior of non-tribal legislators will change when their tribal colleagues can act on their own.

We are interested in two related phenomena: the institutional-level contributions of different classes of legislators to minority representation and the behavioral-level factors that motivate legislators to represent minority interests. First, what impact do reserved seats have on the representation of minority group interests in the legislature as a whole? Here we calculate the contributions of three types of legislators: RS legislators, non-RS with tribal constituents, and non-RS without tribal constituents. We expect the overall number of pro-tribal bills will be higher when RS legislators are allowed to participate, expressed as H1:

H1: Institutional-level representation. The representation of minority group interests in the legislature will increase when reserved seat legislators can introduce legislation.

Second, we are interested in the factors that motivate non-RS legislators to write pro-minority bills. We argue non-RS legislators face different incentives to produce pro-tribal bills conditional on their party identity and their districts' makeup. On average, we expect the presence of Native American constituents in a district, as well as the representative's partisan identity, will influence the number of pro-tribal bills a legislator will introduce or cosponsor in a legislative session.

We follow the literature on the link between minority constituencies and pro-minority voting (Grose 2005; Preuhs 2006), and in particular, research on the link between indigenous

constituents and pro-indigenous voting in the U.S. Congress. Evidence suggests that a higher percentage of Native American constituents, as well as the presence of a recognized tribe, is associated with more pro-indigenous voting by members of Congress (Turner 2005; Conner 2014). Our hypothesis about the effect of constituency on voting is H2, below.

Research suggests RS legislators are successful when they cooperate together and work within political parties in government, even if they themselves belong to small minority parties or parties based on ethnic or religious identity (Templeman 2018). The relationship between party, ideology, and support for indigenous constituents might vary across contexts. There is evidence Democrats and liberal members are more likely to support the legislative priorities of Native Americans than Republicans and conservative members, even when controlling for constituency effects (Turner 2005; Conner 2014), and studies of party identification suggest Native American voters lean Democratic (Herrick and Mendez 2018, 283). Based on these national data, we might assume Democrats are the more pro-tribal party in Maine. The state is noteworthy, however, for its tradition of independents, moderate Republicans, and a Democratic Party torn between urban and rural interests (Palmer et al. 2009). The tribal representatives, for their part, are nonpartisan and do not caucus with either party.⁵ Despite these concerns, we expect legislators who are more ideologically left-liberal will be more supportive of Native American policy interests than conservative members (H3, below). Insofar as Maine's Democrats are more likely to be left-

⁵ Governor Angus King “said he did not understand why we didn’t just join the majority [party] and accept the laws and regulations like any other Maine citizen. I explained that...we are tribal governments and we have special status and special rights” (Loring 2008, 73).

liberal, we expect Democratic non-RS legislators will be more likely to exhibit pro-tribal behavior than Republicans, conditional on the presence of Native American constituents in their district.

H2: Behavioral foundations of pro-tribal voting. Across all periods, non-RS legislators will be more likely to exhibit pro-tribal behavior when their district includes tribal constituents.

H3: Behavioral foundations of pro-tribal voting. Across all periods, Democratic non-RS legislators will be more likely to represent minority interests than Republican non-RS legislators.

We argue reserved seats may decrease the rewards and costs that non-RS legislators associate with representing minority group interests. When an RS legislator can initiate her own legislation, the non-RS legislator who counts minority group members among her constituents might reduce her contribution to the group's representation if there is the perception that minority voters are less likely to punish her for doing so. For example, if the amount of legislation devoted to group interests is fixed over time, the non-RS legislator will introduce fewer bills as the RS legislators introduce more bills. The non-RS legislator operating with a fixed budget will prioritize other legislative work because someone else, the RS legislator, is doing the work to represent that subset of her constituency. A similar logic applies in multi-member districts. Legislators from the same district may cooperate to divide the work of representing different constituency groups (Crisp and Desposato 2004).

A competing explanation suggests non-RS legislators will maintain (or increase) their contribution to representation because their incentive to represent minority group interests remains unchanged, or increases, due to the presence of reserved seats (expressed as H4, below). For example, RS legislators may raise the visibility of the group's interests in the legislature, reinforcing the non-RS legislator's belief that they must continue representing the group's interests

or else be punished for shirking. A non-RS legislator who does not contribute much in the form of representation may increase their contribution because the perceived reward for acting (or the cost of failing to act) has increased.

We can think of the 1995 change to the sponsorship rules as an intervention or treatment. At the center of our theory is the impact dual representation has on how non-RS legislators, who share a constituent group with RS legislators, respond to the treatment. Our treated group comprises the non-RS legislators from districts that include constituents from the Penobscot Nation and Passamaquoddy Tribe. The non-RS legislators who represent Maliseet and Micmac constituents are considered non-treated because they did not share a constituency with any RS legislators in 1995. By distinguishing between tribes with and without reserved seats, we can estimate the impact of dual representation on the representation of tribal interests.

Our final hypothesis addresses another measure of legislative support for indigenous interests: cosponsorship of pro-tribal bills. Muraoka (2019) performs a similar analysis of RS and non-RS legislators in Pakistan. We expect RS legislators will be frequent cosponsors of pro-tribal bills to promote bills that advance indigenous interests. Although we do not test it here, it is plausible that RS legislators cosponsor bills to signal to voters, interest groups, or other legislators. We also expect non-RS legislators with tribes in their district will more likely cosponsor pro-tribal bills than non-RS legislators without tribes in their district (H5, below).

Our expectations about the treatment's impact on cosponsorship differ from our prediction about sponsorship. We conceptualize substantive representation as the legislative work of advancing a group's interests (Pitkin 1967). The act of writing a bill is a greater contribution to representation than cosponsoring another's bill. While we expect that the rule change impacted the treated non-RS legislators' incentives to initiate bills, it would not necessarily reduce to zero the

incentives for them to support the tribes' legislative agenda. If cosponsorship is a less costly act than sponsorship, then we expect the 1995 rule will not impact the treated non-RS legislators' cosponsorship behavior.

H4: Change in behavior over time. After the RS legislators can sponsor legislation, non-RS legislators with tribal constituents will introduce less pro-minority legislation relative to non-RS legislators without tribal constituents.

H5: Change in cosponsorship behavior over time. After the RS legislators can sponsor legislation, non-RS legislators with tribes in their districts will not change their cosponsorship behavior relative to non-RS legislators without tribes in their districts.

Findings

Data

Maine's legislature has two chambers. The Senate has 35 members, elected in single member districts by plurality until 2016, when the state adopted rank choice voting. The House has two classes of legislators, 151 non-RS members and 3 reserved seat members elected at-large by enrolled members of three federally recognized tribes (one seat per tribe).⁶ Legislators work

⁶ The fourth tribe in Maine, the Aroostook Band of Micmac, was recognized by the federal government in 1991. It has never received a reserved seat, although a bill to give the Micmac a seat was introduced in 2017 and passed the House before failing in the Senate (L.D. 890 by Senator Michael E. Carpenter). Aroostook Band Chief Edward PeterPaul, endorsed the bill but preferred the title 'ambassador' to 'representative,' in light of the nation-to-nation relationship

part-time, and the legislative workload is shared between legislators and nonpartisan staff. Legislators submit ideas for legislation (called “bill requests”) to the nonpartisan Office of the Revisor of Statutes, where bureaucrats draft the bill language. Draft legislation is then formally introduced to either the House or Senate, where the bill begins its journey through committees, amendments, and floor votes.⁷ Legislators may request to cosponsor a bill at any time.

We assemble a novel dataset of 388 bills introduced in the Maine legislature, from 1984 to 2019, related to the four federally recognized tribes and other Native Americans living within the state (we discuss our methodology in Appendix A). Since there are no RS legislators in the Senate, we exclude 46 bills that originated in the upper chamber, as well as bills that did not list an individual sponsor.⁸ Next, we identify the primary sponsor and cosponsors for each bill, count the number of tribal bills sponsored and cosponsored by each legislator. We identify each legislator’s party and hometown, and merge with data on the presence of tribal constituencies across districts.⁹

between state and tribe (PeterPaul 2017; Maine State Legislature, Law and Legislative Library 2017).

⁷ Some bills may be excluded at this step of the process, but we expect that number will be low. We contacted the Maine Law Library staff and they were not aware of any bills or bill requests pertaining to tribal policy that were rejected for being non-germane to the rule limiting RS legislators to initiating Indian-related legislation. To capture the broadest measure of representation in the form of writing legislation, we collect data for both bills and bill requests.

⁸ We include the Senate and other bills in the cosponsorship analysis (Appendix B).

⁹ Tribal reservations are treated like municipalities in Maine. Knowing a legislator’s hometown helps us identify which districts contain tribes, given that certain towns are adjacent to

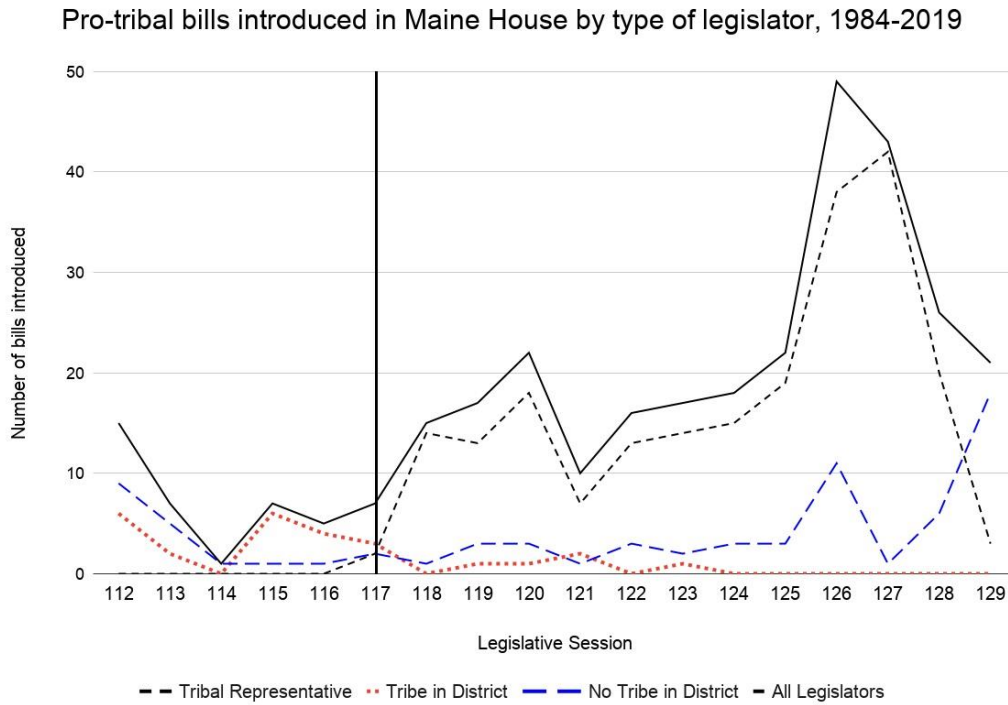
On average, tribal bills comprised 1-2 percent of all the bills introduced in a given Maine House session, and the total number of bills in each session did not vary appreciably. Here we present the results based on the number of pro-tribal bills introduced.

Methods

As a simple test of our first hypothesis that the addition of RS legislators had a positive impact on the overall representation of Native American interests (H1), we examine the total number of pro-tribal bills sponsored per session in the periods before and after the 1995 rule change. As Figure 1 shows, the number of pro-tribal bills per session rose dramatically after 1995. We cannot tell from the figure, however, the relative contributions of RS legislators and non-RS legislators to indigenous representation before and after the rule change. We perform additional tests of our hypotheses for the cross-sectional determinants of pro-tribal sponsorship, and a time series analysis of the impact of the 1995 rule change on the sponsorship behavior of non-RS legislators in different types of districts.

Figure 1:

reservations and tribal trust lands. We reviewed historical maps and town listings to match towns and reservations to districts. For example, Old Town is adjacent to the Penobscot Indian Island Reservation, and Princeton is adjacent to the Passamaquoddy Indian Township Reservation. We identified the district containing Houlton as the home of the Houlton Band of Maliseet Indians.



Cross-Sectional Analysis

Our tests take two forms: a cross-sectional analysis of sponsorship patterns by three different types of legislators (i.e. the determinants of pro-tribal support, on average), and a difference-in-differences analysis of the change in sponsorship behavior by non-RS legislators in two types of districts.

First, we use ordinary least squares regression to assess our hypotheses about the determinants of pro-tribal bill sponsorship, the presence of Native American constituents in a district (H2) and party identification (H3). The unit of analysis is each lower house district in a given two-year legislative session. The dependent variable is the number of pro-tribal bills initiated by the legislator in that district. We include two independent variables to measure the three types of legislators in our study. A binary variable measures whether a given district is represented by an RS legislator (i.e. for the three at-large districts for each tribe), and another variable measures

whether a given district is represented by a non-RS legislator and includes a tribal constituency (1 if the district contains a reservation, a tribal housing community, or tribal land held in trust; 0 otherwise).

We include a measure for the party identification of the legislator in each district (1 for a Democrat and 0 for a Republican or Independent). More than half of the treated districts (85%) were represented by Democrats from 1984-2019, greater than the party ratio of the non-treated districts (57% Democrats). We also include session fixed effects to account for any session-specific variation that may affect the number of tribal bills, such as changes in the total number of bills introduced in the legislature, and other time-variant factors that might influence the overall level of Native American political engagement. Our analysis takes the following form, where y is the number of tribal bills sponsored by a member in district i in session t , *Tribal* is a binary variable for whether a member is a tribal representative, *Dem* measures party, and *TribeDistrict* measures if a district contains a reservation or tribal land. *Session* denotes the session fixed effect; the error term is omitted.

$$y_{it} = Tribal_i + Dem_{it} + TribeDistrict_{it} + Session_t$$

Time Series Analysis: Difference-in-Differences

Second, we are interested in how legislators from different types of districts responded to the 1995 rule change that allowed tribal representatives to initiate bills (H4). For our identification strategy, we use difference-in-differences to compare bill sponsorship patterns of non-RS legislators in districts with tribes with comparable non-RS legislators in districts without tribes. The treatment is the 1995 rule change which gave dual representation to the tribal constituents in some districts. The treated units are the districts that contain tribal constituencies, and the non-treated units are the districts that lack reservations, tribal land, and concentrated tribal housing.

The number of units in the treatment group varies per session, from 3 to 6, as the House district maps are redrawn, and some tribal constituencies are consolidated into fewer districts over time. The non-treated units number around 145 to 148 per session (with fewer in earlier sessions, owing to missing administrative data on House membership). The vast majority of districts in the House do not encompass tribal land, and most legislators do not have a Native American constituency in their district.

To estimate the impact that RS legislators gaining sponsorship rights had on the behavior of legislators in different districts, we include a variable indicating the period after the rule change and interact the indicator with the variable for the presence of a tribal constituency. We are therefore estimating the average effect of the 1995 treatment on the non-RS legislators in districts with tribal constituents. The analysis takes the following form, with an interaction term for the measure of tribe-in-district and the post-reform period. We include fixed effects for legislative session, and in the Appendix, we include member fixed effects to estimate the average treatment effect on the legislators who served in the House in the periods before and after the treatment.

$$y_{it} = Tribal_i + Dem_{it} + TribeDistrict_i * PostReform_t + Session_t$$

Results

Descriptive Statistics

First we present descriptive statistics about pro-tribal sponsorship in the Maine legislature. Most non-RS legislators did not sponsor or cosponsor a single tribal-related bill in a given session, and the bulk of legislative work done to represent indigenous interests was carried out by a small group of non-RS legislators in each session. As expected, when we decompose each group's contribution to indigenous representation in the Maine House, we find tribal representatives played a major role in the production of pro-tribal bills over the past several decades. The eleven tribal

representatives who served since 1995 introduced more than half of the pro-tribal bills from 1984 to 2019 (211 bills), a remarkable statistic given the legal prohibition on writing such bills until 1995.

The two groups of non-RS legislators contributed pro-tribal bills at a similar rate in the five sessions before the treatment, with a slight advantage to the non-treated units: 2.8 bills per session from districts with tribes versus 4.2 bills per session from districts without. The non-RS legislators without tribes, as a group, contributed 150% more bills than their counterparts with tribes: 21 vs 14. Given the difference in the number of treated and non-treated units, however, the average number of bills introduced *per legislator* before treatment was greater among the treated units than the non-treated units.

In the 11 sessions following the treatment, the treated non-RS legislators contributed an average of just one tribal bill per session as a group. The non-treated RS legislators contributed triple the number of bills as a group (30) and averaged 2.7 bills per session. Both groups contributed fewer bills per legislator in the post-treatment period, but the gulf between each group's contributions widened: the non-treated legislators produced 270% more pro-tribal bills than the treated legislators in the post-treatment period, up from 150% pre-treatment. Based on this data, we argue the increase in indigenous representation was the result of three trends: a large increase in the number of bills sponsored by RS legislators after treatment, a threefold decrease in the output of such bills by the treated non-RS legislators, and a smaller decrease in the contributions of non-treated units. The next sections confirm these results with regression analyses.

Cross-Sectional Analysis

In our first set of regression tests, shown in Table 1, the dependent variable is the raw number of tribal bills introduced by each member in each session. We find strong evidence for the constituency hypothesis (H2) and null results for the partisan hypothesis (H3). Across the 35-year window of study, we find the presence of a tribal constituency was predictive of a non-RS legislator initiating pro-tribal bills. As expected, the RS legislators contributed a large number of bills to advance their own constituents' interests after the rule change in 1995. Tribal representatives introduced five more such bills per session, on average, than the non-RS legislators. Across multiple specifications, partisanship is almost never a significant predictor of tribal bill sponsorship. Only in the first model, when we do not distinguish between non-Democrats and the non-partisan RS legislators, do we find Democratic members are less likely to introduce pro-tribal bills. Non-RS legislators from districts with tribal constituents contributed positively to indigenous representation. Models 2, 5, and 8 show support for the constituency hypothesis: the coefficient estimate for the binary variable for the presence of a tribe within the district is both positive and statistically significant. The substantive interpretation of the constituency effect, however, is quite small; non-tribal legislators introduce less than one additional pro-tribal bill when there is a tribe within their district.

Table 1: Cross-section analysis of tribal-bill sponsorship

	<i>Dependent variable: Bill Sponsorship</i>							
	Number of tribal-related bills introduced							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Democratic member	-0.14*			0.03			-0.07	-0.07
	(0.04)			(0.03)			(0.20)	(0.20)
Tribe within district		0.36*			0.44*			0.32*
		(0.13)			(0.10)			(0.12)
Tribal Representative			5.28*	5.30*	5.29*	5.26*	5.25*	5.25*
			(0.12)	(0.12)	(0.12)	(0.14)	(0.14)	(0.14)
Constant	0.20*	0.11*	0.04	0.02	0.03	0.07	0.15	0.14
	(0.03)	(0.02)	(0.01)	(0.02)	(0.01)	(0.06)	(0.21)	(0.21)
Time FEs						✓	✓	✓
Observations	2,761	2,761	2,761	2,761	2,761	2,761	2,761	2,761
R ²	0.01	0.003	0.41	0.41	0.41	0.41	0.41	0.42
Adjusted R ²	0.005	0.002	0.41	0.41	0.41	0.41	0.41	0.41

Note: OLS Regression

*p<0.01

Time Series Analysis

How did the 1995 reform that allowed tribal representatives to introduce their own legislation impact the pro-tribal bill sponsorship of non-RS legislators? Table 2 presents the results of our difference-in-differences analysis, and shows mixed evidence for the complement hypothesis, and some support for the substitute hypothesis. The first model tests for the effects of being a tribal representative, having a tribal constituency (pre-reform), and being in the post-treatment period. Models 2-3 include an interaction term for non-RS legislators with tribal constituents in the post-treatment period, with model 4 adding a measure for party identity. We include session fixed effects in models 3 and 4.

Each of the four models in Table 2 confirms non-tribal legislators introduced a positive (and significant) number of tribal bills before 1995, whereas models 2-4 suggest they introduced fewer bills after the reform. In model 4, which includes time fixed effects and a measure for

partisanship, the estimate suggests legislators in districts with tribes sponsored between 0.5 and 1.2 fewer tribal bills per session after 1995, on average, or roughly one fewer bill every two sessions.

Table 2: Time series analysis of tribal-bill sponsorship

	<i>Dependent variable: Bill Sponsorship</i>			
	No. of tribal-related bills introduced			
	(1)	(2)	(3)	(4)
Tribal Representative	5.29*	5.29*	5.08*	5.08*
	(0.12)	(0.12)	(0.14)	(0.14)
Post-Reform	0.09*	0.10*	0.49*	0.49*
	(0.03)	(0.03)	(0.07)	(0.07)
Tribe within district (pre-reform)	0.44*	1.00*	1.17*	1.17*
	(0.10)	(0.18)	(0.19)	(0.19)
Tribe within district (post-reform)		−0.84*	−1.17*	−1.18*
		(0.22)	(0.22)	(0.22)
Democratic Member				0.04
				(0.20)
Constant	−0.03	−0.05	0.07	0.03
	(0.03)	(0.03)	(0.06)	(0.21)
Time FEs			✓	✓
Observations	2,761	2,761	2,761	2,761
R ²	0.42	0.42	0.43	0.43
Adjusted R ²	0.41	0.42	0.42	0.42

Note: OLS Regression

*p<0.01

The results suggest non-RS legislators with tribal constituents reduced their contribution to indigenous representation in the form of initiating pro-tribal bills. It is possible the results are driven by differences between the treated and non-treated groups that are unaccounted for in the model.

There are at least three assumptions that should be well-supported in order to believe the results of the difference-in-differences. First, the sponsorship behavior of non-RS legislators in the two district types should be trending in a similar direction prior to treatment. The two types of legislators should look similar before the treatment in 1995; each type should be on “parallel trends” before and after the treatment. We find each type of legislator produced a similar number of bills at the group-level, with a declining trend before 1995. The two groups produced a similar number of bills, but the mean number of sponsored bills was higher for non-RS legislators with tribal constituents. Although the trends appear parallel, we lack data on sponsorship before 1984, ten years (five sessions) before the treatment. As a group, the treated and non-treated legislators contributed bills equally before the treatment (47% vs. 53%), but the non-treated legislators introduced a greater proportion of pro-tribal bills after the treatment (87.5% vs. 12.5%).

Second, our difference-in-differences approach meets the assumption that treatment was not correlated with another factor that also affected the number of pro-tribal bills introduced by non-RS legislators. One factor in this period that might have impacted the production of pro-tribal legislation was a task force of the Maine Indian Tribal-State Commission, which worked from June 1996 to January 1997 to study improving tribal-state relations. Their recommendations were submitted to the legislature in a 1997 final report. It is possible the MITSC’s impending report influenced the behavior of non-RS legislators before or after the sponsorship rule change in 1995. For example, we might worry the “treated” non-RS legislators introduced bills before the commission report, and then reduced their output when the commission issued its report and initiated its own bills.

We evaluate this theory about non-RS legislators with tribes in their districts shirking on indigenous representation after the MITSC report by examining cosponsorship patterns. If non-RS

legislators considered the issue of tribal policy largely settled by MITSC, we would expect them to reduce both their sponsorship and cosponsorship of bills that change the status quo of state-tribal relations. What is more likely, we argue, is that non-RS legislators step aside to allow the RS legislators to speak for their own groups' interests, and continue to cosponsor legislation to signal support for their tribal constituents.

Third, we would like to see that the treated and non-treated units are similar on the covariates before the 1995 treatment. Again, the lack of data on Maine legislative politics limits our ability to test this assumption due to scarce covariate data on districts and individual legislators, especially in the earlier period. In terms of party identity, the treated and non-treated units appear similar before the treatment: over half of the legislators in each group were Democrats. The treated units were more often represented by Democrats (90% vs 63% of districts), although the gap was smaller in the session just before the treatment (75% vs 65%). We cannot rule out that the difference in party composition between the two groups was related to the onset of the treatment.

Discussion

We find the addition of reserved seats will not necessarily lead to enhanced representation of a minority group's interests. This finding is especially true if legislators in non-reserved seats undercut the group's interests, such as by initiating fewer bills. It is important to consider how the electoral system that selects both RS and non-RS legislators affects their incentives to represent group interests (Crisp et al. 2018). In particular, we should be aware of how reserved seats might impact institutional-level representation when the constituencies for reserved seats and non-reserved seats overlap. Although we have examined a case with single-member districts, we expect similar results in systems with multi-member districts where legislators in reserved seats are elected by voters who also cast ballots for non-reserved seats within the same district. The relative

size of the minority group within the district, the competitiveness of elections, and the salience of minority group interests in non-reserved seat elections will play a role in how non-RS legislators respond to their colleagues in reserved seats.

One unexpected finding is that non-RS legislators in districts without tribes, on average, increased their contributions to Native American representation after the 1995 rule change, especially Democrats. One possible explanation that we do not test is that changing political conditions in Maine after 1995 gave some of these members the incentive to behave in a more overtly pro-tribal way. Partisan identity and ideology, along with electoral incentives, can be powerful motivators for legislators to represent unique group interests. Idiosyncratic factors can also play a role. A recent bill that gained national attention, a ban on Native American mascots in public schools, was initiated by Benjamin Collings, a liberal member representing Portland. Collings sponsored 2 bills in the 128th session and 8 bills in the 129th session (to date), making him an outlier among non-RS legislators from districts lacking tribal constituents. Perhaps not coincidentally, he also served as the legislative aide to Representative Loring.

It is possible the parties have polarized on tribal policy over the last few decades, and that non-RS legislators without tribal constituents now have an ideological motivation for visibly supporting the interests of Native Americans, especially in the wake of the Standing Rock protests that elevated liberal support for tribal interests. The Appendix evaluates the plausibility of the link between ideology and pro-tribal bill sponsorship. Using campaign finance data for state legislators between 1996-2018, we find non-RS legislators were more likely to sponsor (and cosponsor) pro-tribal bills as their DIME score became more liberal (Bonica 2014).

One limitation of this study is that we do not consider the outcome of legislation. Many studies of reserved seats are focused on behavior besides voting, including initiating and

cosponsoring bills, the content of speeches, and the frequency with of certain topics in debate. The lack of voting rights does not limit the external validity of our study, in part, because much of the work of representation is done before legislators cast their final vote on a bill. Creating and promoting legislation is an important part of representing the unique interests of different groups, and the presence of reserved seats allows minority groups to promote indigenous interests in the form of bills and amendments.

Another limitation of this study is its limitation to Maine alone. Future research might compare the representation of Native American interests across states, to determine if the presence of reserved seats in Maine is associated with greater descriptive and substantive representation in the legislature. Such a study might follow our research design by identifying the pro-tribal bills introduced in each state legislature and assessing variation in the representation of Native American interests as a function of constituency size, tribal presence, party identification, and other factors.

To what extent can this study inform our understanding of politics outside of Maine? While Maine's tribal representative is in many ways unique, it can offer lessons for other tribes seeking representation in legislative institutions. It remains to be seen how Congress will respond to the Cherokee Nation's invocation of treaty rights to seat a delegate, Kimberly Teehee, who was appointed by the tribe. To bring the Cherokee delegate in line with the delegates from D.C. and the territories, Congress may require the Cherokee to hold elections for the reserved seat, in which case policymakers will have to decide if Cherokee voters can cast ballots for the delegate and their local House representative concurrently. Our results suggest tribes should consider the impact that a new delegate seat in Congress will have on the incentives of other members, including House

members from districts with significant Native American populations, as well as Native Americans serving in non-reserved seats.

As 2020 marks the 200th anniversary of Maine's statehood, it is worth considering the origin and legacy of Maine's tribal representative, not least because political science has heretofore ignored the institution. For the first time since 1820, the Penobscot Nation has chosen not to fill their reserved seat in the House, and questions remain about what role the institution will play in state-tribal relations going forward. Beyond Maine politics, the history and recent experiences of Maine's tribal representatives offer a lesson for other groups like the Cherokee who seek representation in the form of reserved seats. This study suggests that reserved seats are not a panacea for improving minority representation, especially when members in those seats lack the power to vote on legislation.

Bibliography

- Bonica, Adam. 2014. "Mapping the Ideological Marketplace." *American Journal of Political Science* 58 (2): 367–386.
- Bratton, Kathleen A. 2006. "The Behavior and Success of Latino Legislators: Evidence from the States." *Social Science Quarterly* 87 (5): 1136–57.
- Clark, Jennifer Hayes, and Veronica Caro. 2013. "Multimember Districts and the Substantive Representation of Women: An Analysis of Legislative Cosponsorship Networks." *Politics & Gender* 9 (1): 1–30.
- Clark, Jon. 2000. "Final Report of the Committee to Address the Recognition of the Tribal Government Representatives of Maine's Sovereign Nations in the Legislature." Paper 110. Maine State Legislature, Office of Policy and Legal Analysis. http://statedocs.maine.gov/opla_docs/110 [https://perma.cc/NVB9-53ZE].
- Conner, Thaddieus W. 2014. "Exploring Voting Behavior on American Indian Legislation in the United States Congress." *The Social Science Journal* 51 (2): 159–66.
- Crisp, Brian F., Betul Demirkaya, Leslie A. Schwindt-Bayer, and Courtney Millian. 2018. "The Role of Rules in Representation: Group Membership and Electoral Incentives." *British Journal of Political Science* 48 (1): 47–67.
- Crisp, Brian F., and Scott W. Desposato. 2004. "Constituency Building in Multimember Districts: Collusion or Conflict?" *The Journal of Politics* 66 (1): 136–156.
- Deloria, Vine. 1969. *Custer Died for Your Sins: An Indian Manifesto*. New York: The Macmillan Company.
- Deloria, Vine Jr., and Raymond J. DeMallie, eds. 1999a. "Treaty Between the Passamaquoddy, Penobscot, and Malecite and Massachusetts, September 29, 1794." In *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979*, 2:1090–92. Norman, OK: University of Oklahoma Press.
- , eds. 1999b. "Treaty Between the Penobscot and Maine, August 17, 1820." In *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979*, 2:1100–1102. Norman, OK: University of Oklahoma Press.
- , eds. 1999c. "Treaty Between the Penobscot and Massachusetts, August 17, 1820." In *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979*, 2:1099–1100. Norman, OK: University of Oklahoma Press.
- Dorr, Jason M. 1998. "Changing Their Guardians: The Penobscot Indians and Maine Statehood, 1820-1849." M.A. thesis, Orono, Maine: University of Maine. <https://digitalcommons.library.umaine.edu/etd/2746/> [https://perma.cc/DDX4-J55Z].
- Evans, Laura E. 2011. "Expertise and Scale of Conflict: Governments as Advocates in American Indian Politics." *American Political Science Review* 105 (4): 663–682.
- Ferguson, Kennan. 2016. "Why Does Political Science Hate American Indians?" *Perspectives on Politics* 14 (4): 1029–1038.
- Fleras, Augie. 1985. "From Social Control towards Political Self-Determination? Maori Seats and the Politics of Separate Maori Representation in New Zealand." *Canadian Journal of Political Science/Revue Canadienne de Science Politique* 18 (3): 551–576.
- Gay, Claudine. 2002. "Spirals of Trust? The Effect of Descriptive Representation on the Relationship between Citizens and Their Government." *American Journal of Political Science*, 717–732.

- Grose, Christian R. 2005. "Disentangling Constituency and Legislator Effects in Legislative Representation: Black Legislators or Black Districts?" *Social Science Quarterly* 86 (2): 427–443.
- Haider-Markel, Donald P. 2007. "Representation and Backlash: The Positive and Negative Influence of Descriptive Representation." *Legislative Studies Quarterly* 32 (1): 107–33.
- Hansen, Donald C. 1967. "State Indians Denied Some Voting Rights." *Portland Sunday Telegram*, April 4.
- Hansen, Eric R., and Sarah A. Treul. 2015. "The Symbolic and Substantive Representation of LGB Americans in the US House." *The Journal of Politics* 77 (4): 955–67. doi:10.1086/682699.
- Herrick, Rebekah, and Jeanette Mendez. 2018. "American Indian Party Identification: Why American Indians Tend to Be Democrats." *Politics, Groups, and Identities*, 1–18.
- Holtzman, Abraham. 1986. "Empire and Representation: The U. S. Congress." *Legislative Studies Quarterly* 11 (2): 249–73. doi:10.2307/439878.
- Houx, Ramona du. 2015. "LePage Pushed Native American Representatives to Leave the Maine Legislature." *Maine Insights*, May. <http://maineinsights.com/lepage-pushed-native-american-representa> [<https://perma.cc/6RG2-Y4LW>].
- Htun, Mala, and Juan Pablo Ossa. 2013. "Political Inclusion of Marginalized Groups: Indigenous Reservations and Gender Parity in Bolivia." *Politics, Groups, and Identities* 1 (1): 4–25.
- Iorns Magallanes, Catherine J. 2005. "Indigenous Political Representation: Identified Parliamentary Seats as a Form of Indigenous Self-Determination." In *Unfinished Constitutional Business? Rethinking Indigenous Self-Determination*, by Barbara Hocking, 106–17. Canberra: Aboriginal Studies Press.
- Johnson, Joshua, and Richard Witmer. 2020. "American Indian Representation and State Policy." *Representation*. Taylor & Francis, 1–21.
- King, Ronald F., and Cosmin Gabriel Marian. 2012. "Minority Representation and Reserved Legislative Seats in Romania." *East European Politics and Societies* 26 (3): 561–588.
- Kolodny, Annette. 2007. "A Summary History of the Penobscot Nation." In *The Life and Traditions of the Red Man*, by Joseph Nicolai, 1–34. Duke University Press.
- Kroeber, Corinna. 2018. "Growing Numbers, Growing Influence? A Comparative Study of Policy Congruence between Parliaments and Citizens of Immigrant Origin." *European Journal of Political Research* 57 (4): 900–918.
- Krook, Mona Lena, and Diana Z. O'Brien. 2010. "The Politics of Group Representation: Quotas for Women and Minorities Worldwide." *Comparative Politics* 42 (3). City University of New York: 253–272.
- Loring, Donna M. 2004. "Tribal-State Relations." *Maine Policy Review* 12 (2): 27–29. <https://digitalcommons.library.umaine.edu/mpr/vol13/iss2/5> [<https://perma.cc/C8HG-AEEU>].
- . 2008. *In the Shadow of the Eagle: A Tribal Representative in Maine*. Gardiner, Me: Tilbury House Publishers.
- Lowande, Kenneth, Melinda Ritchie, and Erinn Lauterbach. 2019. "Descriptive and Substantive Representation in Congress: Evidence from 80,000 Congressional Inquiries." *American Journal of Political Science* 63 (3): 644–59.
- Maine State Law Library. 2017. "Chronology of Tribal Representation | Maine State Legislature." *Maine State Legislature*. January 4.

- <https://legislature.maine.gov/lawlibrary/chronology-of-tribal-representation/9262>
[<https://perma.cc/4AAV-K7AC>].
- Maine State Legislature. 1866a. "Chapter 34: Resolve in Relation to the Duties of Indian Agents." Acts and Resolves Passed by the Forty-Fifth Legislature of the State of Maine. Augusta: Stevens & Sayward.
http://lldc.mainelegislature.org/Open/Laws/1866/1866_RES_c036.pdf
[<https://perma.cc/5VLX-49PD>].
- . 1866b. "Chapter 36: Resolve in Relation to the Penobscot Tribe of Indians." Acts and Resolves Passed by the Forty-Fifth Legislature of the State of Maine. Augusta: Stevens & Sayward. http://lldc.mainelegislature.org/Open/Laws/1866/1866_RES_c036.pdf
[<https://perma.cc/5VLX-49PD>].
- . 1975. "Legislative Record, House, January 22, 1975." In *Legislative Record of the One Hundred and Seventh Legislature of the State of Maine*, A63–70. Augusta, Maine: Kennebec Journal.
http://lldc.mainelegislature.org/Open/LegRec/107/House/LegRec_1975-01-22_HP_pA0063-0070.pdf [<https://perma.cc/A27S-RAX6>].
- . 1995. "Legislative Record, House, January 20, 1995." In *Legislative Record of the One Hundred and Seventeenth Legislature of the State of Maine*, 1:H84–91.
http://lldc.mainelegislature.org/Open/LegRec/117/House/LegRec_1995-01-20_HP_pH0084-0091.pdf [<https://perma.cc/7NVW-REX5>].
- Maine State Legislature, Law and Legislative Library. 2017. "LD 890: An Act to Include a Representative of the Aroostook Band of Micmacs in the House of Representatives." <http://lldc.mainelegislature.org/Open/Meta/LegHist/128/lh128-LD-0890.pdf>
[<https://perma.cc/XJA3-TB5V>].
- Mandell, Daniel R., ed. 2003. "Document 63: Massachusetts Provincial Congress to Penobscots, June 12, 1775." In *New England Treaties, North and West, 1650-1776*, XX:827–28. Early American Indian Documents: Treaties and Laws, 1607-1789. Bethesda, MD: Congressional Information Service, Inc.
- Minta, Michael D. 2009. "Legislative Oversight and the Substantive Representation of Black and Latino Interests in Congress." *Legislative Studies Quarterly* 34 (2): 193–218.
- Mitchell, Lewis. 2014. "Speech before the Maine State Legislature." In *Dawnland Voices: An Anthology of Indigenous Writing from New England*, edited by Siobhan Senier, 170–72. University of Nebraska Press.
- Muraoka, Taishi. 2019. "The Cosponsorship Patterns of Reserved Seat Legislators." *Legislative Studies Quarterly*. doi:<https://doi.org/10.1111/lsq.12271>.
- Palmer, Kenneth T., G. Thomas Taylor, Marcus A. Librizzi, and Jean E. Lavigne. 2009. *Maine Politics & Government*. 2nd ed. Politics and Governments of the American States. University of Nebraska Press.
- PeterPaul, Edward. 2017. "Support of LD 890 'An Act to Include a Representative of the Aroostook Band of Micmacs in the House of Representative' [Sic]." <https://legislature.maine.gov/legis/bills/getTestimonyDoc.asp?id=53767>
[<https://perma.cc/89DX-LUS4>].
- Pitkin, Hanna Fenichel. 1967. *The Concept of Representation*. Berkeley: University of California Press.

- Preuhs, Robert R. 2006. "The Conditional Effects of Minority Descriptive Representation: Black Legislators and Policy Influence in the American States." *The Journal of Politics* 68 (3): 585–599.
- Purinton, James A., and George W. Nutt. 1861. "Report of the Indian Agents of the State of Maine." Maine Indian Agent Reports. Augusta: Stevens & Sayward.
https://digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1001&context=agent_reports [<https://perma.cc/9EGW-3U2M>].
- Reynolds, Andrew. 2005. "Reserved Seats in National Legislatures: A Research Note." *Legislative Studies Quarterly* 30 (2): 301–10. doi:10.3162/036298005X201563.
- Rolfe, Charles A. 1892. "Report of the Agent of the Passamaquoddy Tribe of Indians." Maine Indian Agent Reports. Augusta: Burleigh & Flynt.
https://digitalcommons.library.umaine.edu/cgi/viewcontent.cgi?article=1037&context=agent_reports [<https://perma.cc/B4B3-EWZC>].
- Rollings, Willard Hughes. 2004. "Citizenship and Suffrage: The Native American Struggle for Civil Rights in the American West, 1830-1965." *Nevada Law Journal* 5: 126–40.
- Shay, Nicola Florence. 1942. *History of the Penobscot Tribe of Indians*. Reprint from Bowdoin College Library, Brunswick, Maine. Old Town, ME: Florence Shay.
- Smith, Nicholas N. 2005. "A Rebirth of a Nation? A Chapter in Penobscot History." In *The Algonquin Papers*, 36:407–23. Winnipeg: University of Manitoba.
<https://ojs.library.carleton.ca/index.php/ALGQP/article/view/367>
[<https://perma.cc/47AD-URH7>].
- Starbird, S. Glenn, Jr., Donald Soctomah, and Sue Wright. 2016. "Brief History of Indian Legislative Representatives." Maine State Legislature.
<https://legislature.maine.gov/lawlibrary/history-of-tribal-representation-in-maine/9261>
[<https://perma.cc/Q9Y5-NZA2>].
- State of Maine. 1941. *An Act Relating to Representation of Indian Tribes at the Legislature. Public Laws of the State of Maine*. Vol. Chapter 273.
http://lldc.mainelegislature.org/Open/Laws/1941/1941_PL_c273.pdf
[<https://perma.cc/VH4P-4WWU>].
- Swain, Carol M. 1993. *Black Faces, Black Interests: The Representation of African Americans in Congress*. Harvard University Press.
- Swers, Michele L. 2005. "Connecting Descriptive and Substantive Representation: An Analysis of Sex Differences in Cosponsorship Activity." *Legislative Studies Quarterly* 30 (3): 407–33.
- Tate, Katherine. 2004. *Black Faces in the Mirror: African Americans and Their Representatives in the US Congress*. Princeton University Press.
- Templeman, Kharis. 2018. "When Do Electoral Quotas Advance Indigenous Representation?: Evidence from the Taiwanese Legislature." *Ethnopolitics* 17 (5): 461–484.
- The New York Times*. 1975. "Two Indian Tribes [Sic] in Maine Voted Seats in the House," January 26. <https://timesmachine.nytimes.com/timesmachine/1975/01/26/76810093.pdf>
[<https://perma.cc/CY3H-9YZV>].
- The Old Town Enterprise*. 1910. "Biennial Election—Penobscot Tribe," November 12.
- The Penobscot Times*. 1937. "Old Town Locals," October 7.
- Turner, Charles C. 2005. *The Politics of Minor Concerns: American Indian Policy and Congressional Dynamics*. Lanham, MD: University Press of America.

- Wallace, Sophia J. 2014. "Representing Latinos: Examining Descriptive and Substantive Representation in Congress." *Political Research Quarterly* 67 (4): 917–929.
- Wängnerud, Lena. 2009. "Women in Parliaments: Descriptive and Substantive Representation." *Annual Review of Political Science* 12 (1): 51–69.
doi:10.1146/annurev.polisci.11.053106.123839.
- Washington, George. (1776) 1997. "To the Chiefs of the Passamaquoddy Indians, 24 December 1776." In *The Papers of George Washington: Revolutionary War Series, October 1776-January 1777*, edited by Philander D. Chase and Dorothy Twohig. Vol. 7. University Press of Virginia. <https://founders.archives.gov/documents/Washington/03-07-02-0340> [<https://perma.cc/35SP-KSJR>].
- Wilkins, David E., and Heidi Kiiwetinepinesiik Stark. 2018. *American Indian Politics and the American Political System*. 4th ed. Rowman & Littlefield.
- Williams, Meaghan, and Robert Schertzer. 2019. "Is Indigeneity like Ethnicity? Theorizing and Assessing Models of Indigenous Political Representation." *Canadian Journal of Political Science* 52: 677–96.
- Wilson, Walter Clark. 2010. "Descriptive Representation and Latino Interest Bill Sponsorship in Congress." *Social Science Quarterly* 91 (4): 1043–1062.
- Zuber, Christina Isabel. 2015. "Reserved Seats, Political Parties, and Minority Representation." *Ethnopolitics* 14 (4). Taylor & Francis: 390–403.

Online Appendix

Appendix A: Identifying Tribal-Related Legislation in Maine State Legislature

We rely on multiple sources to construct a dataset of tribal-related legislation in the Maine State Legislature. We began by collecting the title of every bill sponsored or cosponsored by one of the eleven tribal representatives that served from 1995 to 2019. The rule change in the 117th Legislature (H.P. 156) that allowed the tribal representatives to sponsor tribal legislation specified that the representatives could sponsor legislation related to “Indians and Indian land claims.” We include every bill that the tribal representatives sponsor in our dataset of pro-tribal bills, but we are more selective about the bills they cosponsor. We include a cosponsored bill if the title or body includes one of the keywords related to “Indians and Indian land claims.”

Next, we contacted the research staff at the Maine Law and Legislative Reference Library to obtain a list of tribal bills based on keyword searches, dating back to 1984. We cross-referenced the staff’s list with the National Conference of State Legislatures database of tribal-related bills (c.f. Johnson and Witmer 2020). We supplemented these three lists with our own keyword searches of the Maine legislature’s web directory of bills. The list of keyword search terms included, but was not limited to, phrases related to Maine’s tribes (e.g., Passamaquoddy, Maliseet, Micmac, Wabanaki) and Native Americans more broadly (e.g., Indian, Native, tribal, indigenous). ‘Penobscot’ and ‘Aroostook’ are frequent names in Maine, requiring us to carefully filter out bills unrelated to the tribes.

Appendix B: Cosponsorship Analysis

To what extent did cosponsorship behavior change after the 1995 rule change? In this section, we reproduce our cross-section and time-series analyses using data on pro-tribal bill cosponsorship. Table B.1 presents the results of our cross-section analysis. Again, the tribal

representatives played an active role in the legislative process once they were granted the ability to participate. Tribal representatives cosponsored, on average, 8 more pro-tribal bills per session than their non-tribal colleagues. We also find that the presence of a tribe in a given district is positively associated with that legislator cosponsoring pro-tribal bills. These legislators sponsored approximately one more bill per session, on average. In the time series analysis, presented in Table B.2, we also find that non-tribal legislators with tribes in their district did not significantly reduce their cosponsorship behavior after 1995.

Table B.1: Cross-section analysis of tribal-related bill cosponsorship

	<i>Dependent variable: Bill cosponsorship</i>							
	Number of tribal-related bills co-sponsored							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Democratic member	−0.06 (0.07)			0.22* (0.06)			−0.31 (0.38)	−0.30 (0.38)
Tribe within district		1.38* (0.24)			1.50* (0.20)			1.16* (0.22)
Tribal Representative			8.26* (0.23)	8.39* (0.23)	8.30* (0.23)	8.37* (0.26)	8.32* (0.27)	8.33* (0.27)
Constant	0.65* (0.05)	0.59* (0.03)	0.49* (0.03)	0.36* (0.04)	0.46* (0.03)	0.11 (0.12)	0.42 (0.40)	0.41 (0.40)
Time FEs						✓	✓	✓
Observations	2,761	2,761	2,761	2,761	2,761	2,761	2,761	2,761
R ²	0.0003	0.01	0.31	0.32	0.33	0.34	0.34	0.35
Adjusted R ²	−0.0001	0.01	0.31	0.32	0.33	0.34	0.34	0.35

Note: OLS Regression

*p<0.01

Table B.2: Time-series analysis of tribal-related bill cosponsorship

	<i>Dependent variable: Bill cosponsorship</i>			
	Number of tribal-related bills co-sponsored			
	(1)	(2)	(3)	(4)
Tribal Representative	8.27*	8.27*	7.85*	7.85*
	0.23)	(0.23)	(0.26)	(0.27)
Post-reform	0.71*	0.71*	1.38*	1.38*
	(0.06)	(0.06)	(0.13)	(0.13)
Tribe within district (pre-reform)	1.55*	1.52*	1.65*	1.65*
	(0.19)	(0.33)	(0.36)	(0.36)
Tribe within district (post-reform)		0.04	-0.46	-0.46
		(0.41)	(0.42)	(0.42)
Democratic member				-0.01
				(0.37)
Constant	-0.05	-0.05	0.11	0.12
	(0.05)	(0.05)	(0.11)	(0.39)
Time FEs			✓	✓
Observations	2,761	2,761	2,761	2,761
R ²	0.36	0.36	0.38	0.38
Adjusted R ²	0.36	0.36	0.37	0.37

Note: OLS Regression

*p<0.01

Taken together with the results of the sponsorship data, we can say that there is some evidence to support the substitute hypothesis with regards to non-tribal legislators with tribes in their district. These legislators decreased their output of non-tribal bills once their tribal representative counterparts gained the right to sponsor legislation, but they did not stop cosponsoring other pro-tribal bills, including those offered by the tribal representatives.

Appendix C: Constituency Effects: Percent of Native American Constituents

The literature on Native American constituency effects uses other measures of indigenous constituency, in addition to the presence of federally recognized tribes. For example, one might expand the binary measure to include state-recognized tribes that could plausibly exert influence on federal or state legislators without federal recognition. Another popular measure used in the

empirical research on descriptive representation is the percentage of constituencies that belong to a certain group (Hansen and Treul 2015).

- *Constituency Hypothesis #2*: State legislators will be more supportive of tribal legislation as the percentage of their constituents who are Native American increases (Turner 2005; Conner 2014)

Following the work of Turner (2005), we use U.S. Census data to find the percent of residents that self-identify as “Native American” or “American Indian” in each of Maine’s 151 lower house districts. Unfortunately, these data are only readily available from 2009 to 2017, and we are unable to reproduce the difference-in-differences analysis with a continuous measure of indigenous constituency. Nonetheless, we present here the results of the cross-section analysis for bill sponsorship over the last decade. Tables C.1 and C.2 present the results for the cross-sectional analysis of bill sponsorship and cosponsorship behavior, respectively. Although we find strong evidence that the percent of residents who are Native American is positively correlated with cosponsoring pro-tribal bills, we counterintuitively find that the size of the indigenous constituency is negatively associated with primary sponsorship of such bills.

Table C.1: Cross-section analysis of Native American constituency and bill sponsorship

	<i>Dependent variable: Bill Sponsorship</i>				
	Number of tribal-related bills sponsored per district				
	(1)	(2)	(3)	(4)	(5)
Native American population (as percent)	-0.01 (0.01)	-0.004 (0.02)	-0.01 (0.01)	-0.004 (0.02)	-0.004 (0.02)
Tribe within district		-0.10 (0.16)		-0.10 (0.16)	-0.10 (0.16)
Democratic member					-0.05 (0.05)
Constant	0.01 (0.04)	0.01 (0.04)	0.01 (0.04)	0.01 (0.04)	0.06 (0.03)
Time FEs	✓	✓	✓	✓	✓
Observations	906	906	906	906	906
R ²	0.02	0.02	0.02	0.02	0.02
Adjusted R ²	0.01	0.01	0.01	0.01	0.01

Note: OLS Regression *p<0.01

Table C.2: Cross-section analysis of Native American constituency and bill cosponsorship

	<i>Dependent variable: Bill Cosponsorship</i>				
	Number of tribal-related bills cosponsored per district				
	(1)	(2)	(3)	(4)	(5)
Native American population (as percent)	0.19* (0.03)	0.25* (0.06)	0.19* (0.03)	0.25* (0.06)	0.25* (0.06)
Tribe within district		-0.64 (0.55)		-0.64 (0.55)	-0.64 (0.55)
Democratic member					1.07* (0.17)
Constant	1.27* (0.13)	1.25* (0.13)	1.27* (0.13)	1.25* (0.13)	0.17 (0.12)
Time FEs	✓	✓	✓	✓	✓
Observations	906	906	906	906	906
R ²	0.10	0.10	0.10	0.10	0.10
Adjusted R ²	0.09	0.09	0.09	0.09	0.09

Note: OLS Regression *p<0.01

Appendix D: Legislator Ideology

In addition to partisanship, we might also expect that a legislator's ideology will be associated with their willingness to sponsor or cosponsor pro-tribal bills. We express this hypothesis as follows:

- *Ideology Hypothesis #1*: Liberal legislators will be more supportive of tribal-related bills than more conservative legislators, conditional on the presence of a tribe in the district.

To test this hypothesis, we draw on the work of Bonica (2014) and identify the DIME scores for most of Maine's legislators. Unfortunately, the DIME data begin in 1996, one year after the reform in which we are interested, so we are unable to account for ideology in our difference-in-differences analysis. We were also unable to locate DIME data for all 151 members in every session of the Maine House. Nonetheless, these data can be helpful for evaluating our expectations about the relationship between ideology and pro-tribal behavior in the legislature.

Here we present the results of the cross-sectional analyses using the DIME scores from 1996 to 2016. Tables D.1 and D.2 present the results for bill sponsorship and cosponsorship respectively. We find some evidence that a higher CF score is associated with a member sponsoring and cosponsoring fewer pro-tribal bills. We caution that the magnitude of these effects are quite small, and in the case of bill sponsorship, not robust to the inclusion of partisanship and constituency effects. Conversely, we find strong evidence, across multiple specifications, that ideology is predictive of cosponsoring pro-tribal bills (table 8).

Table D.1: Cross-section analysis of legislator ideology and bill sponsorship

	<i>Dependent variable: Bill Sponsorship</i>			
	Number of tribal-related bills sponsored			
	(1)	(2)	(3)	(4)
Ideology (1 is conservative, -1 is liberal)	-0.02* (0.01)	-0.02 (0.02)	-0.02* (0.01)	-0.02 (0.02)
Democratic member		-0.01 -0.01		-0.01 -0.01
Tribe within district			0.13* (0.05)	0.13* (0.05)
Constant	0.03* (0.01)	0.03* (0.01)	0.03* (0.01)	0.03* (0.01)
Time FEs	✓	✓	✓	✓
Observations	1,686	1,686	1,686	1,686
R ²	0.003	0.003	0.01	0.01
Adjusted R ²	0.002	0.002	0.01	0.005
<i>Note: OLS Regression</i>				*p<0.05

Table D.2: Cross-section analysis of legislator ideology and bill cosponsorship

	<i>Dependent variable: Bill cosponsorship</i>			
	Number of tribal-related bills cosponsored			
	(1)	(2)	(3)	(4)
Ideology (1 is conservative, -1 is liberal)	-0.20* (0.03)	-0.18* (0.07)	-0.19* (0.03)	-0.19* (0.07)
Democratic member		0.04 (0.13)		-0.004 (0.13)
Tribe within district			1.41* (0.22)	1.41* (0.22)
Constant	0.58* (0.03)	0.57* (0.06)	0.56* (0.03)	0.56* (0.06)
Time FEs	✓	✓	✓	✓
Observations	1,686	1,686	1,686	1,686
R ²	0.02	0.02	0.05	0.05
Adjusted R ²	0.02	0.02	0.05	0.05
<i>Note: OLS Regression</i>				*p<0.01