

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 2004 – Ought To Pass

An Act to Restore Access to Federal Laws Beneficial to the Wabanaki Nations

Joint Standing Committee on Judiciary

May 31, 2023

Senator Carney, Representative Moonen and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Michael Kebede, and I am Policy Counsel for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I urge you to support LD 2004 because it is necessary to correct a fundamental inequity in Maine’s treatment of Wabanaki Nations.

Since 1980, when Congress passed the Maine Indian Claims Settlement Act (“MICSA”) and Maine enacted the Maine Implementing Act (“MIA”), Maine has treated Wabanaki Nations not as the sovereigns they are, but as municipalities with a legal status akin to that of Bangor, Lewiston, and other Maine towns and cities. This status has meant that as other tribal nations have benefited from federal laws designed to improve Indigenous health and welfare, Wabanaki Nations have been left behind.

This bill would help put Wabanaki Nations on equal footing with other tribal nations in the country. As a matter of basic fairness, tribal nations in Maine deserve no less control over their own destiny than those enjoyed by other tribes in other states. If enacted, this bill would amend MICSA to make it clear that Wabanaki citizens can enjoy the benefits of laws that Congress passes specifically for the benefit of tribal nations, with certain exceptions. This bill will help ensure that Wabanaki Nations are not left behind as other tribal nations experience higher living standards, better governance, and more prosperity.

Indeed, this is a bill to lift not just Wabanaki Nations, but also Maine’s rural communities. During the COVID-19 pandemic, Wabanaki Nations were alone among tribal nations in their inability to declare an emergency. The Stafford Act made federal funds available

to other tribal nations that declared a state of emergency in response to natural disasters or public health emergencies. But Wabanaki Nations were denied these funds, because MICSA made the Stafford Act inapplicable to Wabanaki Nations. If this bill had been in place before the pandemic, Wabanaki Nations could have drawn down federal money for COVID-mitigation measures, with benefits that ripple out to rural communities. The same Act can still be used to address the opioid crisis in Indigenous communities in ways that help rural Maine communities.

This bill aligns with the nationwide trend toward enhancing tribal sovereignty. For at least the past 25 years, the United States, numerous state and local governments, and countries around the world have dedicated themselves to protecting and promoting the rights of Indigenous peoples. This is reflected, for instance, in the signing by every member of the United Nations (including the United States) of the United Nations Declaration on the Rights of Indigenous Peoples. This commitment stems from a recognition that many indigenous peoples were treated unjustly and unfairly and that all of us have a moral duty to promote indigenous recovery and recognize indigenous rights. In Alaska, for instance, as recently as 1988, the Alaska Supreme Court held that the Native villages in Alaska are “not self-governing or in any meaningful sense sovereign.” *Native Village of Stevens v. Alaska Management & Planning*, 757 P.2d 32, 34 (Alaska 1988). Eleven years later, however, that same court reversed itself and held that the Native villages in the State possess inherent powers of self-government. *John v. Baker*, 982 P.2d 738 (Alaska 1999). The Tribal Nations in Maine are among those who suffered mightily at the hands of the United States, and in some respects, they still do. The improvements that this bill would set in motion are both reasonable and modest, and not a single one of them is different than the benefits almost all other tribal nations already possess.

We urge you to vote *ought to pass*.